

URBAN/MUNICIPAL  
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1992-

AGENDAS AND THE MINUTES  
OF THE PLANNING AND  
DEVELOPMENT

SEPT. 17, 1992-







URBAN/MUNICIPAL



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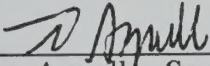
1992 September 17

**NOTICE OF MEETING**

**PLANNING AND DEVELOPMENT COMMITTEE**

Wednesday, 1992 September 23  
9:30 o'clock a.m.  
Room 233, City Hall

URBAN MUNICIPAL  
SEP 9 - 1992  
GOVERNMENT DOCUMENTS

  
\_\_\_\_\_  
Tina Agnello, Secretary  
Planning and Development Committee

**AGENDA:**

1. **CONSENT AGENDA**

2. **CONFIDENTIAL AGENDA**

3. **ALDERMAN ROSS**

Request for Public Meeting regarding Closure of Walkway between Lynwood and Wendover

4. **CHIEF ADMINISTRATIVE OFFICER  
AND DIRECTOR OF LOCAL PLANNING**

Draft Mission Statement Hamilton Harbour Commissioners







5. **COMMISSIONER OF PLANNING AND DEVELOPMENT**

Residential Enclaves - Process for the Neighbourhood Planning Study

6. **GO TRANSIT CENTRE**

- (a) Information Report on Advisory Committee: Commissioner of Planning and Development
- (b) Recommendation Report, Urban Design Committee

7. **LOCAL ARCHITECTURAL CONSERVATION ADVISORY COMMITTEE**

Comments on the Ontario Heritage Act Review

**ZONING APPLICATIONS AND PUBLIC MEETINGS**

**10:30 O'CLOCK A.M.**

- 8. City Initiative 92-C, for a change in zoning from "AA" District to "DE-3" District for lands municipally known as No. 240 Rymal Road East; Allison Neighbourhood
  - (a) Submission: Janice Lattin, TransCanada Pipelines, Calgary, Alberta
- 9. Zoning Application 92-20, David K. Lord and Eileen R. Booty, owners, for modification to the established "E" District regulations for property located at No. 173 Bold Street and No. 20 Wheeler Place; Durand Neighbourhood

**Submissions:**

- (a) Joseph Vamosi, 56 East Avenue North, Hamilton, Ontario
  - (b) Jim C. Taylor, Edgecombe Group Inc., 655 Bay Street, Suite 1200, Toronto, Ontario
10. Zoning Application 92-27, 483466 Ontario Ltd. (Jerome Calzonetti), owner, for a change in zoning from "C" District to "RT-20" District for property located at No. 829 Rymal Road East; Eleanor Neighbourhood







**10:45 O'CLOCK A.M.**

11. Janet Court - Request for Walkway Closure, Kentley Neighbourhood (P5-2-85)
12. Carpenter Neighbourhood Plan Amendment (P5-2-20)
13. Zoning Application 92-19, Rolando P. Baldessarimi, owner, for a change in zoning from "D" District to "G-3" District for property located at No. 412 Charlton Avenue West; Kirkendall North Neighbourhood

**Submissions:**

- (a) Peter Simmons, 382 Charlton Avenue West, Hamilton, Ontario
- (b) Patricia Simmons, 382 Charlton Avenue West, Hamilton, Ontario
- (c) Shirley Deans, 409 Charlton Avenue West, Hamilton, Ontario
- (d) Brian G. Sayer, 64 Chatham Street, Hamilton, Ontario
- (e) James H. Mann, 404 Charlton Avenue West, Hamilton, Ontario
- (f) Sharon Perks, 397 Charlton Avenue West, Hamilton, Ontario
- (g) Elaine and Andrew Jensen, 405 Charlton Avenue West, Hamilton, Ontario
- (h) Don Seymour and Suzanne Swanton, 406 Charlton Avenue West, Hamilton, Ontario

**11:00 O'CLOCK A.M.**

14. Zoning Application 92-08, Faith Evangelical Lutheran Church of Hamilton, owner, for changes in zoning from "C" District to "DE-3" District modified for Block "1" and to "H" District modified for Block "2", and for a modification to the "H" District regulations for Block "3", for property located at No. 1907 King Street East; Bartonville Neighbourhood
15. Zoning Application 92-09, Hope Haven Homes Family Rehabilitation Centre, owner, for a further modification to the "D" District regulations for property located at No. 992 Montclair Avenue; Delta West Neighbourhood

16. **SECRETARY, PLANNING AND DEVELOPMENT COMMITTEE**

Making Cities Livable Conference - 1992 March 8 - 12, Charleston, South Carolina

17. **OTHER BUSINESS**

18. **ADJOURNMENT**







OUTSTANDING LIST

PLANNING AND DEVELOPMENT COMMITTEE

<u>ITEM</u>	<u>ORIGINAL DATE</u>	<u>ACTION</u>	<u>STATUS</u>
Mobile Signs		Planning	Report Pending
C.I.90-F - Parking requirements in the Central Business District	1990 July 25	Planning	Draft Report being finalized. Consult with Parking Authority, Traffic, Building and Cash-in-Lieu of Parking Committee and report back
Site Plan Enforcement Procedures	1991 Jan. 23	Building, Regional Engineering, Planning	Report back on alternative proposals
City Initiative - Wm. Connell Park, Redbirds Double "A" facility	1991 April 24	Planning	To be processed
ZA 88-129 - South-east corner of Upper Wentworth Street & Stone Church Road East	1991 April 24	Regional Engineering/ Ward 7 Aldermen	Tabled until 1991 October to determine road requirements and Ward Aldermen to hold a neighbourhood meeting







<u>ITEM</u>	<u>ORIGINAL DATE</u>	<u>ACTION</u>	<u>STATUS</u>
C.I. - Mohawk Sports Park & Bernie Arbour Stadium	1991 May 22	Planning	To be processed
Conditions of conversions - separate utility controls	1991 June 19	Building	Report pending
ZA 91-43 - 145 MacNab Street North	1991 October 23	Planning	Tabled to resolve design issues and height of building.
Site Plan Control Application DA-91-50 - 45 Hempstead Drive	1992 January 8	Planning	Tabled - Applicant directed to proceed through Committee of Adjustment
Grading Requirements	1992 February 19	Roads Department	Report Pending
Roof Water Connections	1992 March 25	Building	Report Pending
Request regarding Urban Design Committee Circulation on municipal projects	1992 March 25	Municipal Departments	Tabled - to solicit comments from - Municipal Depts & standing committees





<u>ITEM</u>	<u>ORIGINAL DATE</u>	<u>ACTION</u>	<u>STATUS</u>
11-13 Holmes Avenue 19th century log home	1992 June 24	Planning	Report pending
ZA-91-12 25 Hess Street South	1992 June 24	Applicant	Tabled for negotiations between parties
ZA-92-03 212 James Street South	1992 June 24	Applicant Harper Brothers Holdings	Tabled to submit amended application
Residential Enclaves	1992 June 30	Planning	Report to review process to rezone to residential
ZA-92-22 860 Upper Wentworth Street	1992 July 22	Applicant R. P. Estrabillo	Tabled to resolve neighbours concerns
Site Plan Control Application DA-92-99 at 2117 King Street East	1992 August 19	Planning	Tabled to invite applicant to attend meeting
ZA-92-17 1123, 1131 and 1135 Stone Church Road East	1992 August 19	Alderman Charters	Tabled for ward aldermen to get public input

1992 September 04





**PLANNING AND DEVELOPMENT COMMITTEE**

**WEDNESDAY, 1992 SEPTEMBER 23**

**CONSENT AGENDA**

**A. ADOPTION OF THE MINUTES**

Minutes of the meeting held 1992 August 19

**B. DIRECTOR OF PUBLIC WORKS**

International Village B.I.A. - 1992 Schedule of Payments

**C. SENIOR DIRECTOR, ROADS DEPARTMENT**

- (a) Rymal Square Estates - Phase 3  
Cash-in-Lieu of 5% Parkland Dedication
- (b) Primecan Estates, Paradise Gate Estates, The Gardens of Rymal  
Cash -in-Lieu of 5% Parkland Dedication

**D. BUILDING COMMISSIONER**

- (a) Request for 48 hour express service for issuance of zoning verification/property reports
- (b) Ontario Home Renewal Programme Grant/Loan(s)
- (c) Demolition Permits:
  - (i) 330 Charlton Avenue West
  - (ii) 332 Charlton Avenue West
  - (iii) 590 Stone Church Road East
  - (iv) 493 Burlington Street East
  - (v) 1134 Upper Wentworth Street
  - (vi) 1086 Upper James Street
  - (vii) 1170 Garth Street
  - (viii) 261-263 Wellington Street North





E. COMMISSIONER OF PLANNING AND DEVELOPMENT

Underground Parking Study - Terms of Reference

F. INFORMATION REPORTS

- (a) City Solicitor: Rent Control Act, 1992
- (b) Building Commissioner: 74 Charlton Avenue East - Illegal Demolition
- (c) Commissioner of Planning and Development - Approved Site Plan Control Application





A.

Wednesday, 1992 August 19  
9:00 o'clock a.m.  
Room 233, City Hall

The Planning and Development Committee met.

**There were present:** Alderman D. Drury, Chairperson  
Alderman F. Eisenberger, Vice-Chairperson  
Mayor R. Morrow  
Alderman M. Kiss  
Alderman D. Wilson  
Alderman B. Charters  
Alderman H. Merling  
Alderman F. D'Amico

**Absent:** Alderman W. McCulloch, City Business

**Also present:** Alderman T. Anderson  
V. Abraham, Planning Department  
P. Mallard, Planning Department  
J. Hickey-Evans, Planning Department  
B. Janssen, Planning Department  
K. Extance, Planning Department  
C. Floroff, Planning Department  
N. Chapple, Planning Department  
G. Aston, Transportation/Environmental Services  
L. King, Building Department  
R. Buckle, Property Department  
R. Karl, Traffic Department  
J. Robinson, Building Department  
T. Agnello, Secretary

1. **820 RYMAL ROAD EAST - CONDITION OF  
APPROVAL: ZA-89-94 (PREVIOUSLY TABLED)**

Herman Turkstra was present on behalf of Mr. DiCenzo and Ed. Fothergill was present on behalf of Mr. and Mrs. Spenuk.

The Committee was in receipt of the following reports:

- (a) A report from the Commissioner of Planning and Development dated 1992 March 9
- (b) A confidential information report from the City Solicitor dated 1992 April 2
- (c) Correspondence from Fothergill Planning and Development dated 1992 July 20

Paul Mallard advised that the compromise reached involves the closure of the east-west interior street. A three metre buffer strip would be required on the westerly and southerly boundaries of the property. The two parties are presently working out the final details regarding costing and responsibility.



Herman Turkstra suggested that an amendment to the neighbourhood plan may be required.

After brief discussion, the Committee moved to recommend to Council as follows:

That Section 13 of the First Report for 1990 of the Planning and Development Committee approved by City Council on January 30, 1990, respecting 820 Rymal Road East, be modified as follows:

- (i) That a new Clause (ii) be added as follows:
  - "(ii) That the "HH" (Restricted Community Shopping and Commercial) District regulations, as contained in Section 14A of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
    - (1) That a minimum 3.0 m wide landscaped planting strip shall be provided and maintained along the westerly and southerly lot lines; and,
    - (2) That a minimum 1.2 m to 2.0 m high visual barrier shall be provided and maintained along the westerly and southerly lot lines."
- (ii) That the subsequent Clauses be renumbered accordingly.
- (iii) That the new Clause (v) (presently Clause (iv)) be modified by adding the following to the end:

"Further, that portion of the proposed east-west road located adjacent to and south of the subject lands be deleted and designated "Single and Double Residential"."

## 2. CONSENT AGENDA

The following three items were pulled from the consent agenda for discussion.

### E. BUILDING COMMISSIONER

#### **Designated Property Grants**

John Robinson advised that the program is in danger of lower funding levels and also the timing for applications is a problem because approvals are granted in September.

As recommended by the Building Commissioner in a report dated 1992 August 14, the Committee recommended to Council as follows:

That the Mayor be authorized and directed to express to the Minister of Culture and Communications the concerns of the City of Hamilton about recent changes in the Designated Property Grant Programme approval process. The programme is highly valued in the Heritage Community. Previously, grant commitments were made by the municipality as soon as applications were completed. Now, applications must wait through the summer for late September approval by the Ministry, thus jeopardizing this normally seasonal exterior work. Also, funding levels have dropped.

F. COMMISSIONER OF PLANNING AND DEVELOPMENT(d) **Modifications to Official Plan Amendment No. 80 - City of Hamilton Response**

Caroline Floroff advised that there are 13 modifications which are being proposed. The recommendation includes responding to the Hamilton Harbour Commissioners stating that their proposals are not supported. If they wish to have a use other than shipping or navigation, they are required to make an application for rezoning.

In response to a question from Alderman Merling, Ms. Floroff replied that the Region is awaiting a formal response to the City's comments to the Harbour Commission.

Alderman Merling was concerned about the 7 million dollars which has been spent by the City on the cleanup of the Windemere Basin and the issue over jurisdiction of the property. He advised that the Harbour Commissioners feel that the recovered lands belong to them and they are making plans accordingly.

Alderman Merling suggested that these lands be designated a special study area in Hamilton's Official Plan. A special meeting of the Planning and Development Committee should be organized to discuss these matters.

As recommended by the Commissioner of Planning and Development in a report dated 1992 August 11, the Committee recommended to Council as follows:

## A. That the City Clerk be directed to advise Hamilton-Wentworth Region that the City of Hamilton:

- (a) endorses the modifications to Official Plan Amendment No. 80 to the City's Official Plan as proposed by the Region (Appendix "A") except for Modification No. 9;
- (b) requests that Modification No. 9 be further modified as follows:

delete Clause (ii) of Policy C.4.9 and replace with:

"ensure that, where remedial actions plans are required by the Ministry of the Environment, no development will take place until notification is received from the Ministry that the decommissioning process has been satisfactorily completed. In this regard, Council will utilize means such as Site Plan Approval, the "H" (Holding zone provisions), etc., as a means to prohibit development;"

- (c) requests a new Modification 14 be introduced as follows:

Item 19 be modified by deleting the preamble of Subsection 5 - General Land Use Provisions and replacing it with the following:

"It is the general intent of this Official Plan that all planning and development both public and private, within the City of Hamilton will be undertaken in



compliance with the policies of this Plan. However, there are exceptions, where the operation of government, associated public bodies and institutions that are permitted "as-of-right", or without locational restriction throughout the City, with the exception of lands designated Escarpment Natural Area or Escarpment Protection Area as shown on Schedule "B" as Special Policy Area "1A" and "1B" wherein such uses must be in accordance with the Permitted Uses as set out in Section A.2.9.1 and the Development Criteria of the Niagara Escarpment Plan. In addition, there are certain uses which are not acceptable within the City due to the danger they may pose to persons and/or property and therefore should be prohibited throughout the City."

- (d) the modifications and land use changes as proposed by the Hamilton Harbour Commissioners' in their letter of 1992 May 27 (Appendix "B") cannot be supported.

B. The City Clerk be requested to forward a copy of this report to the Region and the Ministry of Natural Resources for their information.

- (e) **Site Plan Control Application DA-92-99, Russ MacKenzie, owner, for an addition to a garage at 2117 King Street East, Bartonville Neighbourhood**

The Committee moved to table this matter to allow the applicant to be present to review the site plan.

A. **ADOPTION OF THE MINUTES**

- (a) **Regular meeting held 1992 July 22**

The minutes of the regular meeting held 1992 July 22 were approved as circulated.

- (b) **Special meeting held 1992 July 22**

The minutes of the special meeting held 1992 July 22 were approved as circulated.

B. **DIRECTOR OF PROPERTY**

**Release of Construction Covenants, Cayuga Materials and Construction Company Ltd. - 1680 Upper Ottawa Street**

As recommended by the Director of Property in a report dated 1992 August 11, the Committee recommended to Council as follows:

That the Mayor and City Clerk be authorized to execute the necessary documents to release the property at 1680 Upper Ottawa Street, Hamilton from the construction covenants to the City as contained in Instrument Numbers 195566 L.T. and 195567 L.T., registered on 1987 March 3.

C. CITY SOLICITOR

**Proposed Expropriation of 386 Birch Avenue**

As recommended by the City Solicitor in a report dated 1992 August 11, the Committee recommended to Council as follows:

That an Expropriation By-law to expropriate, for municipal purposes, vacant land described as Part of Lots 11 and 12, Registered Plan 547, designated as Part 5; Part of Lot 12, Registered Plan 547, designated as Part 2; and Part of Reserve, Registered Plan 547, designated as Part 4; all on Plan 62R-10273, be enacted by Council.

D. SENIOR DIRECTOR, ROADS DEPARTMENT

**Claudette Gardens - Phase 1, Cash-in-lieu of 5% Parkland Dedication**

As recommended by the Senior Director, Road Department, in a report dated 1992 August 7, the Committee recommended to Council as follows:

- (a) That the City of Hamilton accept the sum of forty thousand one hundred and eighty dollars (\$40,180) as cash payment in lieu of the 5% land dedication in connection with Claudette Gardens - Phase 1, Hamilton, this being the cash payment required under Section 50 of the Planning Act.
- (b) The lands of Claudette Gardens - Phase 1 are located on the west side of Garth Street north of Rymal Road West in the Falkirk East Planning Neighbourhood.

E. BUILDING COMMISSIONER

(a) **Emergency Loan Programme - 153 Bell Avenue**

As recommended by the Building Commissioner in a report dated 1992 July 30, the Committee recommended to Council as follows:

That a Hamilton Emergency Loan (H.E.L.P.) in the amount of seven hundred and forty six (\$746) be approved by Helen Meldrum, 153 Bell Avenue, Hamilton. The interest rate will be 8 percent amortized over 5 years.

(b) **City of Hamilton Heritage Programme**

(i) **233 and 235 Locke Street North**

As recommended by the Building Commissioner in a report dated 1992 August 11, the Committee recommended to Council as follows:

That the Building Department, Loans Division, be directed to apply on behalf of the owner to the Province of Ontario for a Designated Property Grant in the amount of three thousand dollars (\$3,000) for Mr. Kopriva, owner of 233-235 Locke Street North.

(ii) **256 - 258 MacNab Street North**

As recommended by the Building Commissioner in a report dated 1992 August 11, the Committee recommended to Council as follows:

That the Building Department, Loans Division, be directed to apply on behalf of the owners to the Province of Ontario for a Designated Property Grant in the amount of one thousand, one hundred and fifty dollars (\$1,150) for Ms. H. Kirkpatrick and Mr. T. Baker, owners of 256-258 MacNab Street North.

(iii) **33 Undermount Avenue**

As recommended to the Building Commissioner in a report dated 1992 August 11, the Committee recommended to Council as follows:

That the Building Department, Loans Division, be directed to apply on behalf of the owner to the Province of Ontario for a Designated Property Grant in the amount of one thousand, eight hundred and thirty five dollars (\$1,835) for Mr. Stacy, owner of 33 Undermount Avenue.

(iv) **188 Markland Street**

As recommended by the Building Commissioner in a report dated 1992 August 11, the Committee recommended to Council as follows:

(1) That the Building Department, Loans Division, be directed to apply on behalf of the owners to the Province of Ontario for a Designated Property Grant in the amount of two thousand, four hundred and eight dollars (\$2,408) for Mr. Masniak, owner of 188 Markland Street.

(2) The Building Department, Loans Division, be directed to process an increase in the Community Heritage Trust Fund Loan to Mr. Masniak, owner of 188 Markland Street, in the amount of two thousand, four hundred and seven (\$2,407) at 6% interest amortized over a ten year period.

(v) **74 George Street**

As recommended by the Building Commissioner in a report dated 1992 August 11, the Committee recommended to Council as follows:

(1) That the Building Department, Loans Division, be directed to apply on behalf of the owners to the Province of Ontario for a Designated Property Grant in the amount of three thousand (\$3,000) for Mr. and Mrs. Rigby, owners of 74 George Street.

(2) That the Building Department, Loans Division, be directed to process an increase in the Community Heritage Trust Fund Loan to Mr. and Mrs. Rigby, owners of 74 George Street, in the amount of three thousand, three hundred and twelve dollars (\$3,312) at 6% interest amortized over a ten year period.



(vi) **107 George Street**

As recommended by the Building Commissioner in a report dated 1992 July 17, the Committee recommended to Council as follows:

- (1) That the Building Department, Loans Division, be directed to apply on behalf of the owner to the Province of Ontario for a Designated Property Grant in the amount of five hundred and forty-nine dollars (\$549) for Mrs. Janet Snelgrove, owner of 107 George Street.
- (2) That the Building Department, Loans Division, be directed to process an increase in the Community Heritage Trust Fund Loan to Mrs. Janet Snelgrove, owner of 107 George Street, in the amount of five hundred and forty-eight dollars (\$548) at 6% interest amortized over a ten year period. The total Community Trust Fund loan is now \$6,299.

(vii) **988 Concession Street**

As recommended by the Building Commissioner in a report dated 1992 August 11, the Committee recommended to Council as follows:

- (1) That the Building Department, Loans Division, be directed to apply to the Province of Ontario on behalf of the owners Mr. and Mrs. J. Miller, 988 Concession Street, for a Designated Property Grant in the amount of six thousand dollars (\$6,000) for the years 1992 and 1993. Note, normally the maximum grant in any one year is three thousand dollars (\$3,000) but the Province has agreed to commit two years of grant because of the nature of the work.
- (2) That the Building Department, Loans Division, be directed to process a Heritage Trust Fund Loan to Mr. and Mrs. J. Miller, 988 Concession Street in the amount of fifteen thousand dollars (\$15,000) at 6% interest amortized over 10 years.

(viii) **221 Ferguson Avenue South**

As recommended by the Building Commissioner in a report dated 1992 August 12, the Committee recommended to Council as follows:

That the Planning and Development Committee and City Council apply to the Province of Ontario for a Designated Property Grant for 221 Ferguson Avenue South on behalf of the owner, I. Dreimanis, in the amount of four hundred and fifty dollars (\$450).

(d) **Demolition Permits**

As recommended by the Building Commissioner in various reports, the Committee recommended to Council as follows:

That the Building Commissioner be authorized to issue demolition permits to the following properties:

- (1) 1143 Upper James Street
- (2) 480 Rymal Road West
- (3) 1158 Garth Street
- (4) 1176 Garth Street
- (5) 1112 Upper Wentworth Street
- (6) 1117 Upper Wentworth Street
- (7) 1118 Upper Wentworth Street
- (8) 1128 Upper Wentworth Street
- (9) 1129 Upper Wentworth Street

**F. COMMISSIONER OF PLANNING AND DEVELOPMENT**

(a) **Request for a modification in zoning - No. 55 Lancing Drive**

As recommended by the Commissioner of Planning and Development in a report dated 1992 August 11, the Committee recommended to Council as follows:

That Item 17 of the Fourth Report for 1992 of the Planning and Development Committee approved by City Council on 1992 February 25th, respecting Zoning Application ZA-91-77 for the property at 55 Lancing Drive, map attached hereto as Appendix "C" be amended as follows:

- (i) That clause (B) regarding parking provisions be deleted and replaced with the following new clause:

- (B) That the amending By-law not be forwarded for passage by City Council until the applicant has completed the required works in accordance with DA-89-02 to the satisfaction of the Building Commissioner.

(b) **City Initiative 89-F, Definition of Townhouses and Maisonettes**

As recommended by the Commissioner of Planning and Development in a report dated 1992 August 10, the Committee recommended to Council as follows:

That Section 16 of the Sixth Report for 1990 of the Planning and Development Committee as approved by City Council at its meeting of Tuesday, 1990 March 13th, regarding the Definition of Townhouse Dwelling be amended on the following basis:

- (i) that Subsection (f) be deleted in its entirety and the following Subsections be renumbered accordingly.

- (c) **Request to remove Part Lot Control from Lots 1 to 31 inclusive and Blocks 32 to 35 inclusive - Edan Heights: South of Stone Church Road and west of Upper Sherman Avenue - Butter Neighbourhood**

As recommended by the Commissioner of Planning and Development in a report dated 1992 August 4, the Committee recommended to Council as follows:

- (i) That a by-law to remove part-lot control from the lots and blocks of land in the Edan Heights, Phase 2 plan of subdivision, 62M-705, be enacted by Council.
- (ii) That following enactment of the by-law, that the Regional Municipality of Hamilton-Wentworth (as delegate of the Minister of Municipal Affairs) be requested to grant approval to the by-law and endorse same on the by-law.

- (d) **Conformity Exercise: The Niagara Escarpment Plan/Hamilton Official Plan**

As recommended by the Commissioner of Planning and Development in a report dated 1992 July 30, the Committee recommended to Council as follows:

- (i) That City Council endorse the Official Plan policies and modifications to Schedule "B" - Special Policy Areas contained in the draft Order Made Under The Niagara Escarpment Planning and Development Act, attached hereto and marked Appendix "D";
- (ii) That staff of the Local Planning Branch initiate discussions with the Niagara Escarpment Commission, the Ministry of Municipal Affairs and the Ministry of the Environment to prepare zoning by-laws that will replace the development control system administered by the Niagara Escarpment Commission for lands designated Escarpment Protection and Urban in the Niagara Escarpment Plan; and,
- (iii) That the Region of Hamilton-Wentworth, the Niagara Escarpment Commission, the Minister of Municipal Affairs and the Minister of the Environment be advised of:
  - (1) City Council's endorsement of the Official Plan policies and modifications to Schedule "B" - Special Policy Areas in regard to the Niagara Escarpment Plan conformity exercise; and,
  - (2) The intent of the City of Hamilton to develop zoning by-laws to replace the development control system administered by the Niagara Escarpment Commission for lands designated Escarpment Protection and Urban in the Niagara Escarpment Plan.



- (e) **Site Plan Control Application DA-92-27, Taba Developments Ltd., to amend DA-91-67 for an office, industrial and commercial development at the south-east corner of Upper Ottawa and Stone Church Road East**

That approval be given to Site Plan Control Application DA-92-27 to amend DA-9167 by Taba Developments Ltd., owner of the lands at the south-east corner of Upper Ottawa and Stone Church Road East for an office, industrial and commercial development subject to the following:

- (i) incorporation of the approved plans in a Site Plan Agreement, to be registered on title to indicate the condominium lines/dividing lines of property;
- (ii) approval from the Committee of Adjustment for the following variances:
  - (1) a 0.0 m southerly side yard for Building "C" where a 6.0 m side yard is required;
  - (2) a 0.0 m northerly side yard for Building "D" where a 6.0 m side yard is required;
  - (3) a 6.0 m front yard setback for the ground sign where 11.4 m is required;
  - (4) provision of the manoeuvring space for 9 parking spaces for Phase II (Buildings B & C) over Phase I (Buildings D and E) where it should be provided on the same lot.
- (iii) provision of a right-of-way for the southerly driveway for the portion located on the adjoining lands known as 1453 Upper Ottawa Street.

**G. INFORMATION REPORTS**

The Committee was in receipt of the following reports:

- (a) Building Commissioner: Perimeter Fence - 107 Stuart Street South dated 1992 August 5
- (b) Building Commissioner: Designated Property Grants dated 1992 July 16
- (c) Director of Public Works: Barton General Business Improvement Area - General Programme dated 1992 July 20
- (d) Director of Local Planning: Approved Site Plan Control Applications dated 1992 August 11

**3. (a) Proposed Provincial Regulations for Apartments in Houses**

Joanne Hickey-Evans reviewed the report with the Committee. Various issues which the Planning Department is commenting on include minimum unit size, cellar units, parking standards and ceiling heights.

The proposed parking scheme conflicts with the City of Hamilton permit parking system.

The Granny Flat issue also needs to be dealt with. She suggested that they cannot be considered temporary if sewer, water and foundations are required for these structures.

Also, the issue of non-related families living together has not been sufficiently addressed.

The report supports additional powers of entry for municipal officials.

(b) **David Beland - Delegation**

Mr. Beland of the Citizen for Citizens Group and the St. Clair Boulevard Heritage District was present to speak on the proposed Provincial regulations for apartments in houses.

He advised that he attended a meeting with Ministry representatives and feels that the City should implement policies as they relate to local needs. He felt there is flexibility in the policy areas.

Alderman Wilson stated that the policies seem tailored to the City of Toronto. He does not feel that 269 square feet is an adequate size of living space for an individual. He also does not agree with cellar units.

Mr. Beland commended the proposals regarding "right to entry".

Subsequent to the presentation by Ms. Hickey-Evans and Mr. Beland, the Committee moved to forward to Council the recommendation of the Commissioner of Planning and Development in a report dated 1992 August 13 as follows:

A. That the City of Hamilton:

supports the concept of allowing an additional unit "as-of-right" in residential districts provided the following standards are met:

- (i) the additional unit shall be restricted to single-family dwellings only;
- (ii) the minimum unit size shall be 65 m<sup>2</sup>;
- (iii) the additional unit shall not be permitted in a cellar;
- (iv) the parking standards are: 1 space per unit up to 2 units; 1.33 space for each unit for 3 units and 1.25 spaces per unit for four or more units;
- (v) the use of tandem parking and on-street parking not be considered as means of meeting the parking standards; and,
- (vi) the minimum ceiling height should be 2.1 m
- (vii) requests the Province to clarify the terms "unit", and "street allowance";
- (viii) requests the Province to clarify, that if units are permitted below grade, what standards (i.e. Health By-law, Residential Rental Standards By-law) will be used to determine which units are acceptable;

- (ix) requests the Province to clarify the legislation with respect to parking so as to ensure the City has the right to continue implementing roadway parking restrictions notwithstanding it may restrict additional units from being provided; to continue to allow the City to define the size of a parking space; and to allow the City to determine the appropriate on-street parking standard;
- (x) supports the additional powers of entry for municipal officials;
- (xi) requests the Province to explore all legal (i.e. legal agreements) and planning (i.e. setbacks, etc.) implications of "garden suites" (granny flats) before introducing legislation to permit them as temporary uses;
- (xii) does not object to the clarification of the legislation dealing with unrelated people forming a single housekeeping unit provided it does not affect the City's ability to regulate such uses as lodging houses, rooming houses, boarding houses, group homes, residential and short term care facilities;
- (xiii) reaffirms its 1991 June 25 request to the Province;
  - (1) to fund a Pilot project in Hamilton to deal with the issues associated with residential conversions on a neighbourhood basis;
  - (2) to increase the allocation of non-profit and coop units to the City of Hamilton;
  - (3) to reassess all converted units in Hamilton, legal and illegal, in order that appropriate taxes for these dwellings can be collected; and,
  - (4) to amend the Planning Act to clearly define "use" to include vacant units

B. That the City Clerk be requested to notify the Ministers of Housing and Municipal Affairs of City Council's decision and the report dealing with the proposed Provincial regulations for Apartments in Houses be forwarded to the Province for information.

3. (b) **Housing Intensification Strategy - Request for direction**

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 July 29 requesting direction on how to proceed with the implementation of the housing.

After brief discussion, the Committee resolved as follows:

That the Planning Department staff be directed to proceed with the recommendations to implement the Housing Intensification Strategy, including the holding of public meetings under the Planning Act.



**4. CONFIDENTIAL AGENDA**

The Committee moved in closed session to discuss property matters and reconvened immediately thereafter with the following recommendations to Council:

**4.1 170 1/2 MacNab Street North, Hamilton**

As recommended by the Building Commissioner in a report dated 1992 July 15, the Committee recommended to Council as follows:

That once a Property Standards By-Law Order to Comply (to be issued) becomes final and binding for the property known as 170-1/2 MacNab Street North, the Building Commissioner be authorized to call tenders and proceed to have the work completed to bring the subject dwelling into compliance with the City of Hamilton Property Standards By-law 74-74 as amended. Cost not to exceed twenty five thousand dollars (\$25,000).

**4.2 Ontario Home Renewal Programme - Registration of Loan on Tax Rolls, 103 Ivon Avenue**

As recommended by the Building Commissioner in a report dated 1992 July 30, the Committee recommended to Council as follows:

That the total outstanding Ontario Home Renewal Programme loan for Mrs. D. Ebert, 103 Ivon Avenue, Hamilton, in the amount of five hundred and eighty-two dollars and nineteen cents (\$582.19) be placed on the Tax Rolls.

**4.3 Ontario Home Renewal Programme - Registration of Loan on Tax Rolls, 83 Simcoe Street East, Hamilton**

As recommended by the Building Commissioner in a report dated 1992 July 24, the Committee recommended to Council as follows:

That the total outstanding Ontario Home Renewal Programme loan for Mrs. E. Barbieri, 83 Simcoe Street East, Hamilton, in the amount of two thousand and twenty four dollars and eighty one cents (\$2,024.81) be placed on the Tax Rolls.

**5. BUILDING COMMISSIONER****Building Code By-law 85-86**

As recommended by the Building Commissioner in a report dated 1992 August 11, the Committee recommended to Council as follows:

- (a) That the application of the Hamilton-Halton Builders' Association for a reduction of permit fees prescribed under By-law 85-86 for the N.E.A.T. house at 2 Westlawn Drive be approved.
- (b) That the City Solicitor be directed to prepare an amendment to By-law 85-86 exempting the property at 2 Westlawn Drive from payment of permit fees, as prescribed, under Section 16 of the By-law.

ZONING APPLICATIONS AND PUBLIC MEETINGS

6. **ZA-92-29, The Hamilton Society for the Prevention of Cruelty to Animals, owner, for a change in zoning from "M-14" to "M-13", modified, for Block "I" and for a modification to the "M-13" District regulations for Block "2", for property located at Nos. 235-265 Dartnall Road; Hannon South Neighbourhood**

The applicant was present in support of the application.

As recommended by the Commissioner of Planning and Development in a report dated 1992 August 12, the Committee recommended to Council as follows:

That approval be given to Zoning Application 92-29, The Hamilton Society for the Prevention of Cruelty to Animals, prospective owner, for a change in zoning from "M-14" (Prestige Industrial) District to "M-13" (Prestige Industrial) District, modified (Block "1"), and for a modification to the "M-13" (Prestige Industrial) District, (Block "2"), to permit an animal shelter, on property located at 235 to 265 Dartnall Road, as shown on the attached map marked as Appendix "E", on the following basis:

- (a) That Block "1" be rezoned from "M-14" (Prestige Industrial) District to "M-13" (Prestige Industrial) District;
  - (b) That the "M-13" (Prestige Industrial) District regulations as contained in Section 17E of Zoning By-law No. 6593, applicable to Blocks "1" and "2", be modified to include the following variances as special requirements:
    - (i) That notwithstanding Section 17E(1)(b) of Zoning By-law No. 6593, an animal shelter shall be permitted; and,
    - (ii) That notwithstanding Section 17E(2)(b)(ii) of Zoning By-law No. 6593, a minimum set back of 10.0 m shall be provided and maintained for every building and structure from TransCanada Pipelines right-of-way;
  - (c) That the amending by-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1280, and that the subject lands on Zoning District Map E-69E be notated S-1280;
  - (d) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593, and Zoning District Map E-69E for presentation to City Council; and,
  - (e) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.
7. **Amended ZA-92-18, Shell Canada Products Limited, prospective owner, for changes in zoning from "AA" to "HH", modified, for Block "1" and from "C" to "HH", modified for Block "2" for property located at No. 1630 Upper Gage Avenue; Eleanor Neighbourhood**

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 August 11.

Paul Mallard explained that the application is a request to permit the development of lands for a car wash and lube shop in conjunction with a service station whereas limited neighbourhood commercial development has been permitted by Council. This application, if approved, requires an amendment to the official plan. It is presently zoned for townhouse development. Of 300 notices circulated, 2 have replied in favour and 5 opposed. The Planning Department is recommending denial.

Mr. Pelech was present on behalf of the applicant. He circulated a proposed site plan to the Committee members. He suggested the proposed use would compliment the gas station which will be geared to local neighbourhood use.

Mr. Ed Ford of 860 Rymal Road East was present to voice residents concerns. He objects to the rezoning for reasons of potential increased traffic, accidents, fumes and safety hazards.

Mr. Pelech replied that the service centre is permitted and the additional use will serve as a buffer area.

Alderman Merling stated that residents do not want any more townhouses because the area is saturated. He suggested the approval be made site specific to the property with a landscaped berming buffer 3 meters wide adjacent to residential areas in addition to a six foot high visual barrier. The visual barrier to be erected immediately upon approval of the application.

In response to a question from Alderman Charters, Mr. Karl advised that there are no traffic concerns.

After discussion, the Committee moved to forward the following recommendation to Council:

- (a) That approval be given to Official Plan Amendment No. 117 to redesignate lands municipally known as 1630 Upper Gage Avenue from "Residential" to "Commercial", and the City Solicitor be directed to prepare a By-law of adoption for submission to the Regional Municipality of Hamilton-Wentworth.
- (b) That approval be given to Zoning Application 92-18, Shell Canada Products Limited, prospective owner, requesting a change in zoning from "AA" (Agricultural) District to "HH" (Restricted Community Shopping and Commercial) District modified (Block "1"), and from "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District modified (Block "2"), to permit a car wash or lube shop on property located at 1630 Upper Gage Avenue, as shown on the attached map marked as Appendix "F", on the following basis:
  - (i) That Block "1" be rezoned from "AA" (Agricultural) District to "HH" (Restricted Community Shopping and Commercial) District;
  - (ii) That Block "2" be rezoned from "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District;
  - (iii) That the "HH" (Restricted Community Shopping and Commercial) District regulations, as contained in Section 14A of Zoning By-law No. 6593, applicable to Blocks "1" and "2", be modified to include the following variances as special requirements:
    - (1) That notwithstanding Section 14A(1) of By-law No. 6593, only the following commercial uses shall be permitted:
      - (aa) a mechanical car wash; or,
      - (bb) a lubrication services for motor vehicles.
    - (2) That a minimum 3.0 m wide landscaped planting strip shall be provided and maintained along the northerly and westerly lot lines;
    - (3) That a minimum 1.2 m to 2.0 m high visual barrier shall be provided and maintained along the northerly and westerly lot lines.



- (iv) That Clauses (b) and (c) of Section 3 of By-law No. 91-128 be amended by deleting the words "northerly and" and by changing the word "lines" to "line" in the third line thereof;
- (v) That the amending By-law be added to Section 19B of Zoning By-law 6593, as Schedule S-1284, and that the subject lands on Zoning District Map E-38D be notated S-1284;
- (vi) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-38D for presentation to City Council;
- (vii) That the proposed change in zoning will be in conformity with the Official Plan for Hamilton Planning Area upon approval of Official Plan Amendment No. 117 by the Regional Municipality of Hamilton-Wentworth; and,
- (viii) That the Eleanor Neighbourhood Plan be amended to redesignate the subject lands from "Attached Housing" to "Commercial".

8. **ZA-89-129, T. Valeri Construction Ltd., owner for a change in zoning from "E-2", modified , to "G-1" for lands located at the south-east corner of Stone Church Road East and Upper Wentworth Street; Butler Neighbourhood**

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 August 11

Submissions were received from the following people:

- (a) June Kertyzia, Administrator, Stone Church Family Health Centre, Hamilton
- (b) John Lee, 26 Redwood Drive, Hamilton
- (c) George Barclay, Vice-President and C.E.O., DeSantis Homes, Hamilton, 178 Barton Street East, Stoney Creek

Pat Valeri was present in support of his application.

Paul Mallard advised that the applicant proposes to erect a two storey commercial plaza with retail stores in the first floor and offices on the second level. The area residents have expressed concern over a potential 8 storey building being erected which is presently permitted as a use. The Planning Department agrees with a limited neighbourhood use which would not generate a great deal of traffic if it is the Committee's intention to approve the application. Of notices circulated, 19 replied in favour and 18 were opposed.

Mr. Valeri advised that homes in a 2,000 square foot range are located in this area and a commercial use is better suited for this property than an 8 storey building.

Mr. Barclay, representing Hamilton General Homes and the Highridge Plaza, said that additional commercial uses will add to the commercial bankruptcies in the area.

Peter Edmonson, of 138 Stone Church Road, representing his mother-in-law who owns property across the street from the development and adjacent to it, was present in support of the application.

Robert Stevens, of 391 Stone Church Road East, Unit 62 stated that he prefers a one storey commercial building only.

Fred Harrison of 473 Acadian Drive was in support of the plaza as depicted in the artist's rendering.

In response to Mr. Barclay's concerns, Mr. Valeri stated that the bankruptcies are a result of the economic climate not the zoning application.

Alderman Merling advised that the Highridge Plaza was rezoned commercial with no restaurant permitted. Subsequently, a cafeteria use was requested and now a pizza parlour exists in the plaza. Alderman Merling suggested that G-4 restricted uses be permitted and that the plaza be under site plan control subject to area residents' approval.

Mr. Barclay clarified that a large part of the lands at the Highridge Plaza were unsuitable for single family development because of excavation problems. He noted that the plaza is the only commercial facility in the neighbourhood south of the proposed freeway. At the time of application, both staff and the Committee encouraged the application. Concessions were made to retain the historic building at the health centre.

After discussion, the Committee resolved to forward the following recommendation to Council for consideration:

- A. That approval be given to Official Plan Amendment No. 116 to redesignate lands from "Residential" to "Commercial" for lands located at the south-east corner of Upper Wentworth Street and Stone Church Road East, and the City Solicitor be directed to prepare a By-law of adoption for submission to the Regional Municipality of Hamilton-Wentworth.
- B. That approval be given to amended Zoning Application 88-129, T. Valeri Construction Limited, owner, for a change in zoning from "E-2" (Multiple Dwellings) District to "G-4" (Designed Neighbourhood Shopping Area) District modified, to permit a shopping centre, for property located at the south-east corner of Stone Church Road East and Upper Wentworth Street, as shown on the attached map marked as Appendix "G", on the following basis:
  - (1) That the "G-4" (Designed Neighbourhood Shopping Area) District regulations as set out under Section 13D of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
    - (aa) That notwithstanding Section 13D(1)B of By-law No. 6593, only the following commercial uses shall be permitted:
      - (i) retail grocery store;
      - (ii) retail drug store;
      - (iii) retail stationer;
      - (iv) retail bakery or confectionary store;
      - (v) barbershop, hairdressing establishment or beauty parlour;
      - (vi) retail hardware store;
      - (vii) shoe repair shop;
      - (viii) collecting and distributing station for a laundry or dry cleaner;
      - (ix) retail dry goods store or a retail women's or men's clothing store;

- (x) bank;
  - (xi) offices for medical or dental practitioners;
  - (xii) offices for use by insurance agents, lawyers, auditors or realtors;
  - (xiii) a photographer's studio except a motion picture studio;
  - (xiv) a commercial lending library;
  - (xv) signs in accordance with Clause (xvii) of Section 13D(1)B.
- (bb) That Section 13D(5) of By-law No. 6593 shall not apply;
- (cc) That a minimum 3.0 m wide landscaped planting strip shall be provided and maintained along the lot lines adjacent to the residential districts to the east and south; and,
- (dd) That a minimum 1.2 m to 2.0 m high visual barrier shall be provided and maintained along the lot lines adjacent to the residential districts to the east and south.
- (2) That the amending By-law be added to Section 19B of Zoning By-law No. 6593, as Schedule S-1283, and that the subject lands on Zoning District Map E-27C be notated S-1283;
- (3) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-27C for presentation to City Council;
- (4) That the proposed change in zoning will be in conformity with the Official Plan for the Hamilton Planning Area upon approval of Official Plan Amendment No. 116 by the Regional Municipality of Hamilton-Wentworth; and,
- (5) That the Butler Neighbourhood Plan be amended to redesignate the subject lands from "Medium Density Apartments" to "Commercial".

C. That any Site Plan submitted for the subject lands be reviewed with the area residents prior to approval.

9. (a) **Upper James Land Use Review - West side of Upper James Street between Wembley and South Bend Roads**

Joanne Hickey-Evans explained that in 1991 the Planning and Development Committee requested that a land use review be conducted in this area. The following four options were considered:

- (i) Retail all as residential
- (ii) Redevelop the existing buildings for public use
- (iii) Conduct a complete redevelopment of the Upper James frontage
- (iv) Redevelop both Upper James and West 1st Street

The Planning Department considers the second option to be the most viable. This option requires an official plan amendment, rezoning and should be subject to site plan control. Of 343 notices circulated, 28 replied in favour and 34 were opposed.



As recommended by the Commissioner of Planning and Development in a report dated 1992 August 11, the Committee recommended to Council as follows:

That approval be given to Option 2 to permit limited residential, commercial, public and institutional uses within the existing buildings, as detailed in the Upper James Street Land Use Review for the west side of Upper James Street between Wembley and South Bend Roads (674 to 712 Upper James Street).

- (b) **City Initiative 92-D for an Official Plan Amendment and change in zoning from "C" to "H" District, modified for lands on the west side of Upper James Street between Wembley and South Bends Roads (Nos. 674 to 712 Upper James Street); Bonnington Neighbourhood**

Submissions were received from the following people:

- (i) Arthur Weisz, Effort Trust Company, 242 Main Street East, Hamilton
- (ii) Peter and Maryanne Russell, 184 Allenby Avenue, Hamilton
- (iii) William and Yvonne Sheppard, 308 West 2nd Street, Hamilton
- (iv) David and Helen Gilson, 78 West 1st Street, Hamilton

Ms. Hickey-Evans advised that the official plan amendment and changes in zoning replace 3 other previously passed Official Plan amendments. These are being repealed in order that a consolidated plan may be passed.

As recommended by the Commissioner of Planning and Development in a report dated 1992 August 12, the Committee recommended to Council as follows:

- A. That the following By-laws be repealed in their entirety:

- (a) By-law No. 87-68 (Official Plan Amendment No. 49 ) - 678 Upper James Street
- (b) By-law No. 87-221 (ZA 86-51) - 678 Upper James Street
- (c) By-law No. 87-222 (Site Plan Control) - 678 Upper James Street
- (d) By-law No. 90-304 (Official Plan Amendment No. 93 ) - 694-696 Upper James Street
- (e) By-law No. 90-312 (ZA 88-124) - 694-696 Upper James Street
- (f) By-law No. 90-313 (Site Plan Control) - 694-696 Upper James Street
- (g) By-law No. 90- 305 (Official Plan Amendment No. 94) - 710 Upper James Street
- (h) By-law No. 90-314 (ZA 88-124) - 712 Upper James Street
- (i) By-law No. 90-315 (Site Plan Control) - 712 Upper James Street

- B. That approval be given to Official Plan Amendment No. 115 for a redesignation from Residential to Commercial on Schedule "A" and the creation of a "Special Policy Area" on Schedule "B", for the lands on the west side of Upper James Street between Wembley and South Bend Roads (674 to 712 Upper James Street), as shown on the attached map marked as Appendix "H" and the City Solicitor be directed to prepare a By-law for submission to the Regional Municipality of Hamilton-Wentworth

- C. That approval be given to City Initiative 92-D, for a change in zoning from "C" (Urban Protected Residential, etc.) District to "H" (Community Shopping and Commercial, etc.) District, modified, to permit limited residential, commercial, public and institutional uses within the existing buildings, for properties located on the west side of

Upper James Street between Wembley and South Bend Roads (676 to 712 Upper James Street), as shown on the attached map marked as Appendix "I", on the following basis:

- (a) That the amending By-law apply the holding provisions of Section 35(1) of the Planning Act R.S.O. to the lands located on the west side of Upper James Street between Wembley and South Bend Roads (Nos. 676 to 712 Upper James Street), by introducing the holding symbol 'H' as a suffix to the proposed Zoning District which will prohibit redevelopment of the subject lands until the applicant/owner has applied for and received approval of a Site Plan.
- (b) That the subject lands be rezoned from "C" (Urban Protected Residential, etc.) District to "H"- 'H' (Community Shopping and Commercial, etc. - Holding) District;
- (c) That the "H" (Community Shopping and Commercial, etc.) District regulations, as contained in Section 14 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements:
  - (i) That notwithstanding Section 14(1) of Zoning By-law No. 6593, only the following uses shall be permitted within the buildings existing at the date of the passing of this by-law:

Residential

- (1) single-family dwelling;
- (2) one dwelling unit in the same building with a permitted commercial use.

Commercial

- (3) business or professional person's offices;
- (4) photographer's or artist's studio but not including a motion picture studio;
- (5) barbershop, hairdressing establishment, beauty parlour, physical fitness studio, reducing salon, shoeshine parlour or other like establishment;
- (6) retail store selling:
  - (i) wearing apparel and accessories;
  - (ii) furniture, home furnishings, appliances;
  - (iii) antiques;
  - (iv) books and stationary;
  - (v) tobacco, gifts, novelties, souvenirs, newspapers and magazines;
  - (vi) cameras and photographic supplies;
  - (vii) jewellery;
  - (viii) flowers, plants and like goods sold or offered for sale by a florist;
  - (ix) sale and dispensing of optical goods;
  - (x) computer sales and service; and,
  - (xi) musical instruments sales and service;
- (7) photocopy service;

- (8) retail drug store;
- (9) food store;
- (10) retail variety store;
- (11) showroom or sample room including such a room to deal with bona fide antiques but not including a second-hand shop, pawnbroker, shop for the sale of plumbing supplies or fixtures, or a pet shop; and,
- (12) commercial lending library or art gallery.

Institutional

- (13) day nursery.

Public

- (14) library; and,
- (15) art gallery.

Accessory Use

- (16) a wall, ground or projecting sign that complies with the following requirements:
  - (i) no sign shall exceed 1.2 metres in vertical dimension or 2.2 square metres in area; and,
  - (ii) no sign shall be illuminated unless the source of light is steady and suitably shielded to contain the illumination.
- (ii) No extensions or enlargements of the buildings existing at the date of the passing of the By-law shall be permitted.
- (iii) Notwithstanding Sections 14(2) and (3) of Zoning By-law No. 6593, the following regulations shall apply to the development of lots vacant at the date of the passing of this by-law:
  - (1) no building shall exceed 2.0 storeys in height;
  - (2) a front yard depth of at least 4.5 meters;
  - (3) a side yard along each side lot line of a width of at least 1.2 metres; and;
  - (4) a rear yard of a depth of at least 7.5 metres.
- (iv) In the event that the existing building is destroyed or demolished, it may be replaced only with a building with the same external dimensions and floor area as the building which it replaces and subject to the uses as set out in iii(a) above and the regulations set out in ii(c) above.



- (v) A visual barrier not less than 1.2 meters high and not more than 2.0 meters high; and a minimum 1.5 meter wide landscaped planting strip shall be provided and maintained along the entire westerly lot line.
- (vi) All lighting facilities at the rear of the properties shall be installed and maintained so as to ensure that the light is directed away from all adjacent residential uses.
- (vii) Notwithstanding Section 18A(1) of Zoning By-law No. 6593, the following parking requirements shall be provided and maintained:
  - (1) One space for each dwelling unit;
  - (2) One space for every 19 m<sup>2</sup> of floor area for medical offices (including doctor, dentist, osteopath, drugless practitioner);
  - (3) One space for every 6 children for day nurseries; and,
  - (4) One space for every 31 m<sup>2</sup> of floor area for all other permitted uses.
  - (5) That the amending by-law be added to Section 19B of Zoning By-law No. 6593 as Schedule A, and the subject lands on Zoning District Map W-8 be notated S- 1281;
  - (6) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-8 for presentation to City Council; and,
  - (7) That the proposed zoning change will be in conformity with the Official Plan for the Hamilton Planning Area upon approval of Official Plan Amendment No. 115 by the Regional Municipality of Hamilton-Wentworth.

D. That Site Plan Control By-law 79-275, as amended by By-law 87-223, be amended by adding the lands on the west side of Upper James Street between Wembley and South Bend Roads (Nos. 676 to 712 Upper James Street);

E. That the Development Guidelines contained in this Report be adopted.

10. **ZA-92-26, Jung Y. Mah, owner, for a change in zoning from "C" to "H", modified, for property located at No. 674 Upper James Street; Bonnington Neighbourhood**

Submissions were received from the following people:

- (a) Jim Kaytor, 673 Upper James Street (Mountain Plaza Mall)
- (b) Emily Alice Peall, 627 West 2nd Street, Hamilton, L9C 3G6

The applicant was present in support of his application.

As recommended by the Commissioner of Planning and Development in a report dated 1992 August 11, the Committee recommended to Council as follows:

- A. That approval be given to Zoning Application 92-26, Jung Y. Mah, owner, for a change in zoning from "C" (Urban Protected Residential, etc.) District to "H" (Community Shopping and Commercial, etc.) District, modified, for property located at 674 Upper James Street, as shown on the attached map marked as Appendix "J", on the following basis:
- (a) That the subject lands be rezoned from "C" (Urban Protected Residential, etc.) District to "H" (Community Shopping and Commercial, etc.) District;
  - (b) That the "H" (Community Shopping and Commercial, etc.) District regulations as contained in Section 14 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variances as special requirements;
    - (i) Notwithstanding Section 14 (1) of Zoning By-law No. 6593, only the following uses shall be permitted within the building existing at the date of passing of this by-law:
      - (1) Residential Uses:
        - (a) Single-family dwelling;
        - (b) One dwelling unit in the same building with a permitted commercial use.
      - (2) Commercial Use:
        - (a) Medical offices (including doctor, dentist, chiropractor, osteopath, drugless practitioner).
      - (3) Accessory Use:
        - (a) A wall, ground or projecting sign that complies with the following requirements:
          - (i) no sign shall exceed 1.2 meters in vertical dimension or 2.2 square metres in area; and,
          - (ii) no sign shall be illuminated unless the source of light is steady and suitably shielded to contain the illumination.
    - (ii) No extensions or enlargements of the building existing at the date of the passing of the By-law shall be permitted;
    - (iii) Notwithstanding Section 18A(1) of Zoning By-law No. 6593, the following parking requirements shall be provided and maintained:
      - (a) one space for each dwelling unit;
      - (b) one space for every 19 m<sup>2</sup> of floor area for medical offices (including doctor, dentist, chiropractor, osteopath, drugless practitioner);

- (iv) Sections 18A(11)(a),(b) and (12)(a) of Zoning By-law No. 6593 shall not apply;
  - (v) Notwithstanding Section 18A(8) of Zoning By-law No. 6593, one of the four parallel parking spaces located along the southerly side lot line may have dimensions not less than 2.5 metres wide and 6.3 metres long;
  - (vi) A landscaped strip not less than 1.5 metres in width shall be provided and maintained along the entire westerly lot line where the building has been converted to a commercial use;
  - (vii) A visual barrier not less than 1.2 metres in height and not greater than 2.0 metres in height shall be provided and maintained along the entire southerly and westerly lot lines where the building has been converted to a commercial use;
  - (viii) All lighting facilities at the rear of the property shall be so installed and maintained as to ensure that the light is deflected away from all adjacent residential uses;
  - (ix) In the event that the existing building is destroyed or demolished, it may be replaced only by a building having the same external dimensions as the building which it replaces and the replacement building shall not have more than two storeys plus a basement, and shall only be used for the uses set out in i) above.
- (c) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1282, and that the subject lands on Zoning District Map W-8 be notated S-1282;
  - (d) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-8 for presentation to City Council;
  - (e) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.
- B. That By-law No. 79-275, as amended by By-law No. 87-223 be amended by adding the subject lands to Schedule "A".
  - C. That the amending By-law not be forwarded for passage by City Council until such time as the applicant has applied for and received approval of a site plan.
  - D. That Official Plan Amendment No. 101, adopted by By-law 91-170 passed by City Council on September 24, 1991, be repealed.
  - E. That Item 20 of the 12th Report of the Planning and Development Committee as adopted by City Council at its meeting of August 27, 1991, be rescinded in its entirety.
11. **City Initiative 91-A for an Official Plan Amendment and a general text amendment to the "M" District regulations of Zoning By-law No. 6593, for lands located in the East Mountain Industrial-Business Park, No. 408 Cumberland Avenue and No. 467 Charlton Avenue East**

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 August 12.



Submissions were received from the following people:

- (a) Tony Staibano, Hamilton Prokleen Maintenance and Floor Finishing Limited
- (b) D. J. Mason Electric Company Limited, 38A-Bigwin Road, Unit 6

Joanne Hickey-Evans spoke briefly regarding signage changes. The recommendation is to reduce the setback for signs from 12 metres to 6 metres in the "M11" and "M12" districts and 6 metres to 3 metres in the "M13" district. She suggested that no additional setback requests be approved.

Jennifer Mason of D. J. Mason Electric was present. On behalf of the owners at the condo complex on Bigwin Road, she is opposed to "M14" district permitting automotive uses. Garage type uses have existed which do not comply with the by-laws.

Helmut Pankratz of 120 Lancing Drive concurred and added that it is common for people to rent units and manufacture things in them which cause noxious problems for the others.

Ernie Monkley of 81 Dartnall Road was present. He was concerned about open space storage permitted in the "M13" district because of a garden centre stockpile fertilizer and soil which resulted in a pungent odour in the area. Alderman Charters agreed to assist Mr. Monkley in following up on this matter.

Bryon Robertson, a broker, suggested a change in the "M12" district to the "M11" district, especially for Upper Ottawa Street. Ms. Hickey-Evans replied that "M12" is a wholesale district. Uses are being added to the "M12" district.

Alderman Eisenberger was concerned with the automotive repair use. He also was not in favour of unrestricted sign size.

Paul Mallard suggested that sign requirements consistent with the HH district be adopted.

Subsequent to discussion, the Committee resolved to forward the following recommendation to Council:

- A. That approval be given to Official Plan Amendment No. 114 to amend Schedule "B" to delete the area of the East Mountain Industrial-Business Park; to create a new Schedule "B-3" for the East Mountain Industrial-Business Park; to establish a new Special Policy Area 11a to be contained on Schedules "B" and "B-3"; to amend the relevant policies relating to the introduction of a new Schedule "B-3"; to amend the relevant Policies to permit offices and home improvement uses within the "M-12" and "M-13" Districts; and to rename the "East-Mountain Industrial Park" to the "East Mountain Industrial-Business Park", and the City Solicitor be directed to prepare a by-law of adoption for submission to the Regional Municipality of Hamilton-Wentworth.
- B. That approval be given to City Initiative 91-A to provide for a general text amendment to the "M" (Prestige Industrial) District regulations, by deleting and adding permitted uses, by amending the accessory uses, by amending the landscape and side yard requirements in the "M-11" (Prestige Industrial) District, and by amending the sign regulations, for the properties located in the East Mountain Industrial-Business Park, 408 Cumberland Avenue and 467 Charlton Avenue East, as shown on the attached maps marked as Appendix "K" and Appendix "L", on the following basis:
  - (a) That Sections 17C, 17D, 17E, 17F and 17G of Zoning By-law No. 6593, be amended by deleting Table 2 - Public Uses, Table 4 - Commercial

Uses and Table 5 - Industrial Uses, and substituting Appendices "M", "N" and "O" attached hereto, therefor;

- (b) That Sections 17C, 17D, 17E, 17F and 17G of Zoning By-law No. 6593, Table 1 - Residential Uses and Table 3 - Institutional Uses be amended by deleting the SIC identification numbers;
- (c) That Sections 17C(1)(d), 17D(1)(d), 17E(1)(e), 17F(1)(d) and 17G(1)(d) be repealed in their entirety and replaced with the following:

"Accessory Uses as follows:

- (i) Any accessory building, structure or use customarily ancillary to any of the uses not prohibited.
  - (ii) A dwelling unit not exceeding 83.5 square metres of gross floor area which is necessary for maintenance staff for an industrial use.
  - (iv) Ground sign, wall sign, roof sign."
- (d) That Sections 17C(2)(h)4. and 17D(2)(h)4. be amended by adding the words "except for Lawn and Garden Centres" to the end of the clauses so that the clauses shall read as follows:

"The total area used for storage outside of a building or structure shall not exceed 5% of the lot area, except for Lawn and Garden Centres."

- (e) That Sections 17C(3)5.(i), 17D(3)5.(i), 17E(3)5.(i), 17F(3)5.(i), and 17G(3)5.(i) be deleted in their entirety and the subsequent subclauses be appropriately renumbered.
- (f) That a new Clause be added to Section 17C as follows:

"17C(3)6.(i) Notwithstanding subclause 2(2)J.(xxvi), no ground sign shall be located less than 6.0 m from the front lot line.

- (ii) Notwithstanding Clause i) above, no ground sign shall be located less than 12.0 m from the front lot line, for those lands having frontage either on Stone Church Road East or Nebo Road."

- (g) That a new Clause be added to Section 17D as follows:

"17D(3)6.(i) Notwithstanding subclause 2(2)J.(xxvi), no ground sign shall be located less than 6.0 m from the front lot line.

- (ii) Notwithstanding Clause i) above, no ground sign shall be located less than 12.0 m from the front lot line, for those lands having frontage either on Stone Church Road East or Nebo Road."

- (h) That a new Clause be added to Section 17E as follows:

"17E(3)6.(i) Notwithstanding subclauses 2(2)J.(xb) and 2(2)J.(xxvi), no ground sign shall be located less than 3.0 m from the front lot line.

- (ii) Notwithstanding Clause i) above, no ground sign shall be located less than 6.0 m from the front lot line, for those lands

having frontage either on Stone Church Road East or Nebo Road."

- (i) That a new Clause be added to Section 17F as follows:

"17F(3)6.(i) Notwithstanding subclauses 2(2)J.(xb) and 2(2)J.(xxvi), no ground sign shall be located less than 3.0 m from the front lot line.

- (ii) Notwithstanding Clause i) above, no ground sign shall be located less than 6.0 m from the front lot line, for those lands having frontage either on Stone Church Road East or Nebo Road."

- (j) That a new Clause be added to Section 17G as follows:

"17G(3)6.(i) Notwithstanding subclauses 2(2)J.(xb) and 2(2)J.(xxvi), no ground sign shall be located less than 3.0 m from the front lot line.

- (ii) Notwithstanding Clause i) above, no ground sign shall be located less than 6.0 m from the front lot line, for those lands having frontage either on Stone Church Road East or Nebo Road."

- (k) That Section 17C(2)(b)1.(ii) be amended by adding the words "Side yards having a width of not less than 10% of the width of the lot to a maximum width of 6.0 metres, except" to the beginning of the subclause so that it shall read as follows:

"Side yards having a width of not less than 10% of the width of the lot to a maximum width of 6.0 metres, except where the lot is a corner lot, a flankage side yard having a width of not less than 6.0 metres."

- (l) That Section 17C(e)1.(i) be amended by adding the words "except for the area used for access driveways," to the beginning of the subclause so that it shall read as follows:

"except for the area used for access driveways, a landscaped area in the required front yard having a depth of not less than 6.0 metres abutting the street line;"

- (m) That Section 17C(e)1.(ii) be amended by adding the words "except for the area used for access driveways;" to the end of the subclause so that it shall read as follows:

"where the lot or tract of land is a corner lot, a landscaped area in the entire required side yard abutting the street line, except for the area used for access driveways;"

- (n) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 for presentation to City Council;

- (o) That the proposed changes in zoning will be in conformity with the Official Plan for the Hamilton Planning Area upon approval of Official Plan Amendment No. 114 by the Regional Municipality of Hamilton-Wentworth; and,

- (p) That the "Mountain Industrial Park" Plan be renamed to the "East Mountain Industrial-Business Park" Approved Plan.



12. Amended ZA-92-17, Mr. Chin Shee Shing and Mrs. Chin Nor Fai, owners, for a modification to the "M-13" District regulations, for property located at Nos. 1123, 1131 and 1135 Stone Church Road East; Trenholme Neighbourhood

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 August 12. An agent was present on behalf of the applicant.

Upon the request of Alderman Charters, the Committee moved to table this matter in order to allow the ward alderman to get neighbourhood input.

13. COMMISSIONER OF PLANNING AND DEVELOPMENT

Site Plan Control Application DA-92-16, Mr. Commisso, owner, for a pylon sign at 1167 Rymal Road East

As recommended by the Commissioner of Planning and Development in a report dated 1992 August 11, the Committee resolved as follows:

That Site Plan Control Application DA-92-16 to amend DA-91-17 by Mr. J. Commisso, owner of the lands at 1167 Rymal Road East, for a pylon sign be denied for the following reasons:

- (i) The pylon sign is not permitted within the 60m required in front yard landscaped area; and
- (ii) The pylon sign could be located in a location which complies with Committee of Adjustment allowance.

14. OTHER BUSINESS

None

15. ADJOURNMENT

There being no further business, the Committee meeting adjourned.

Taken as read and approved,

ALDERMAN DON DRURY, CHAIRPERSON  
PLANNING AND DEVELOPMENT COMMITTEE

Tina Agnello  
Secretary  
1992 August 19

Appendix "A" as referred to  
in Section 2F(d)A(a) of the minutes of  
The Planning and Development  
Committee held 1992 August 19

**PROPOSED MODIFICATIONS TO AMENDMENT NO. 80 TO THE CITY OF HAMILTON OFFICIAL PLAN**  
(Revised 29 May 1992 to incorporate comments received as a result of consultation)

Modification 1

Subsection A.2.7.2 - Utility Uses, be revised as follows:

- I) delete Policy A.2.7.2; and,
- II) renumber the other policies in the Subsection accordingly.

Modification 2

Section A - Land Use and Management Strategy, be revised by adding a new Subsection A.2.11 - Shipping and Navigation, to read:

**"A.2.11 - SHIPPING AND NAVIGATION**

It is the general intent of this Plan to recognize the role of the Harbour in the economy of the City and in particular, the activities of the Hamilton Harbour Commissioners in carrying out their activities of SHIPPING AND NAVIGATION.

- 2.11.1 The primary permitted uses in the areas designated on Schedule "A" as SHIPPING AND NAVIGATION will be for shipping terminals; marine freight; passenger handling facilities; related storage, vessel and barge docks; and other uses related to SHIPPING AND NAVIGATION."

Modification 3

Subsection A.3.2 - Environmentally Sensitive Areas, be revised by:

- I) adding to Policy A.3.2.3, the words "...within or adjacent to lands..." after the words "...Where development or redevelopment is proposed on lands..." to read:  
  
"A.3.2.3 Where development or redevelopment is proposed on lands within or adjacent to lands designated ENVIRONMENTALLY SENSITIVE AREAS, Council will consider..."
- II) adding a new clause (IV) to Policy A.3.2.3 to read:  
  
"IV) In the case of Van Wagner's Marsh and Cootes Paradise, the Feasibility Study and Impact Analysis must make specific reference, in consultation with the Ministry of Natural Resources, to the criteria employed in the selection of these Provincially significant features. It must demonstrate that the development is compatible with long term maintenance of the Provincially significant features, in accordance with Provincial direction."

Modification 4

Subsection A.3.2 - Environmentally Sensitive Areas, be revised to add a new Policy A.3.2.10 to read:

- "A.3.2.10 Cootes Paradise and Van Wagner's Marsh are Provincially Significant Wetlands. In addition, Cootes Paradise is a Provincially Significant Area of Natural and Scientific Interest. Council recognizes the Provincial significance of these

features and supports their protection in the long term."

Modification 5

Section A - Land Use and Management Strategy, be revised by adding a new Subsection A.3.5 - Land Fill Constraint Areas, to read:

"Landfill Constraint Areas are those lands which are known former municipal or industrial waste disposal sites. If effective control measures have not been implemented at the site, then methane gas and leachate can migrate laterally from the perimeter of the site. Methane gas and leachate can be generated in quantities and concentrations which can pose a risk to property and human health and safety. It is therefore appropriate to include policies to ensure due caution is exercised in the development/redevelopment of affected lands. Further, the Environmental Protection Act requires that approval for any use of a waste disposal site within 25 years of its closure be obtained in writing from the Minister of the Environment.

3.5.1 Where development is proposed within 500 metres of lands shown as "Land Fill Constraint Areas" on Schedule "1":

- (a) the City, the Region and the Ministry of the Environment will be consulted regarding actions necessary to identify and mitigate any potential adverse environmental effects; and,
- (b) to facilitate a recommendation by the Ministry of the Environment to the approving authority, evidence, will be provided to the City and to the Ministry that such development, including the construction of buildings, structures, and underground utilities and services, as well as hard surface paving, can safely take place.

3.5.2 No uses, except those approved by the City, and in writing by the Minister of the Environment pursuant to the Environmental Protection Act, as amended, will be permitted on lands used for waste disposal purposes within 25 years of termination of such use."

Modification 6

Item 19 be modified to revise Policy 5.1 by adding the word "generally" after the words "...land use compatibility" to read:

"5.1 Notwithstanding SECTIONS A, B AND C of this Plan, the following uses will be permitted within all land use designations provided that land use compatibility is generally maintained and it is keeping with the intent of the development standards set out in this Plan."

Modification 7

Item 19 be modified to revise clause III) of Policy A 5.1 to read:

"III) bona fide shipping and navigation by the Hamilton Harbour Commissioners, without purporting to limit the jurisdiction of the Parliament of Canada, the Federal Government, or the Hamilton Harbour Commissioners acting within the scope of the lawful jurisdiction in respect of shipping and navigation matters in accordance with Subsection D.3."



Modification 8

Subsection B.3.2 - Public Transit, be revised by adding the words "in accordance with the policies established by the Region" after the words "... locate TRANSIT stops" to read:

"B.3.2.1 In the preparation of Neighbourhood Plans, Council will encourage and cooperate with the Region's Transportation Department to locate TRANSIT stops in accordance with the policies established by the Region. Where possible and feasible, transit stops will be located in close proximity to passenger generators. Furthermore, Council with support, where practicable, the integration of those stops with pedestrian crosswalks."

Modification 9

Section C - Amenity and Design Strategy, be revised to add a new policy 4.9 to Subsection C.4 - Pollution, to read:

"4.9 Council recognizes the Ministry of the Environment's concerns regarding the potential for contamination of soils and supports its efforts for the decommissioning of such sites. Accordingly, where the development/redevelopment is proposed for lands currently or previously known to be used for industrial, transportation or utility purposes Council will, in the consideration of an amendment application to this Plan and/or the implementing zoning by-law:

- (i) require the proponents to submit to the Ministry of the Environment, in accordance with that Ministry's requirements, a professional analysis of soils on the site determining the presence, type(s) and concentration of contaminants which may be hazardous to the environment and/or to human health as a prerequisite of development or redevelopment. Determination of contaminants for which analysis will be conducted will be based upon all present and previous uses of the site.

if the analysis identifies the presence of contaminants at concentrations above background levels, the Ministry will require the proponent to formulate and implement a remedial action plan in accordance with the Ministry's Guidelines for the Decommissioning and Clean-up of Sites in Ontario, (as may be amended.) This plan will be submitted to the Ministry for approval;

- (ii) defer applications to rezoning and/or Official Plan amendments until notification is received from the Ministry that the decommissioning process has been satisfactorily completed, in cases where remedial action plans have been required; and,
- (iii) require, in accordance with Ministry requirements, the proponent to submit documentation on previous uses of the property with the application for development/redevelopment to the City for circulation to the Ministry."

Modification 10

Section D.8 - Interpretation, be revised to add a new Subsection D.8.6, as follows:

"D.8.6 Nothing in this Plan shall be interpreted to mean that an undertaking which is subject to the Environmental Assessment Act may proceed except in compliance with that Act. The City will not give any licence, permit or approval that may lead to the commencement of any such undertaking until it has been approved or exempted under the Environmental Assessment Act."

Modification 11

Schedule "A" - Land Use Concept of the Official Plan Amendment No. 80 be revised by:

- i) adding a new designation "Shipping and Navigation" to the legend; and,
- ii) redesignating Piers 10 to 14 and Piers 25 to 27 from "Utilities" to "Shipping and Navigation".

Modification 12

Introduce a new Schedule "T" - Land Fill Constraint Areas, to the Hamilton Official Plan

Modification 13

Renumber the items of Official Plan Amendment No. 80 accordingly.

## landfill -onstraint areas

### legend

- ① King St./Beaulac
- ② Kay Dredge Park
- ③ Hill Street Yard
- ④ ChathamFid
- ⑤ KingCP
- ⑥ Eastwood Park
- ⑦ Burlington/Victoria/  
Wentworth
- ⑧ Burlington/Birch
- ⑨ Burlington/Depew
- ⑩ Burlington/Wentworth
- ⑪ Main/Dundurn
- ⑫ Upper Ottawa Landfill Sit.



0 100 200  
feet  
Scale 1:50,000

## schedule 1

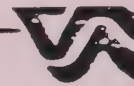
to the official plan  
for  
the City of Hamilton  
December, 1991



Appendix "B" as referred to  
in Section 2F(d)A(d) of the minutes of  
The Planning and Development  
Committee held 1992 August 19

805 James St. N.  
Hamilton, Ontario, Canada  
L8L 1K1

Hamilton 525-4330  
Toronto 1-800-263-  
Tele: 061-8638



The Hamilton  
Harbour  
Commissioners

CONFIDENTIAL & WITHOUT PREJUDICE

May 27, 1992

The Regional Municipality of Hamilton - Wentworth  
P. O. Box 910  
Hamilton, Ontario  
L8N 3V9

Attention: Mr. A. L. Georgieff, MCIP

Dear Sir,

SUBJECT: Proposed Modifications to Official Plan Amendment No. 80,  
City of Hamilton

The above referenced has been reviewed by The Hamilton Harbour Commissioners and we submit the following comments and recommended changes for your consideration.

It is the view of the Commissioners that should the recommendations as set out herein be incorporated by the Region many of the long-standing planning disputes between the City and the Commissioners will be resolved. Moreover, acceptance will also permit the Commissioners to withdraw many of the appeals that we have filed against zoning by-law amendments.

As had been previously set out to the City in previous correspondence, we had anticipated that the Major Five-Year Review to the City's Official Plan would have resulted in more than just housekeeping measures. The latest proposals for modifications to the Plan are an improvement over the initial proposal, however we feel that additional policies relating to the Port of Hamilton are warranted.

The proposal that we have provided will assist in providing the much needed certainty and predictability for long-term economic growth in the Port and the region. The attached Appendix 1 - "An Overview of the Benefits of the Port of Hamilton" - provides a basis for the incorporation of appropriate policies in the Official Plan which will in turn assist in establishing the atmosphere for growth and prosperity. Our proposal will only serve to benefit and sustain this growth, while continuing to be consistent with the judgement set down by Mr. Justice Griffiths. In this regard, we believe that Mr. Justice Griffiths was very clear in confirming the role of the Harbour Commissioners in port planning. For example, in Hamilton Harbour Commissioners v. City of Hamilton (1978), 91 D.L.R. (3d) 353, page 366, Mr. Justice Griffiths concluded:

If a port is to remain competitive, it must have sufficient flexibility to adapt its land uses to all the changing needs. If its harbour is to survive, a harbour authority must have complete and absolute control over the harbour and surrounding lands to enable it to develop to its full potential.

The following are our specific comments relating to the proposed modifications dated March 13, 1992:-

#### Modification 1

We concur.

#### Modification 2

The intent of this modification is positive, however in our view does not go far enough to fully address the importance, role and function of the Port. We propose the following:-

#### "A.2.11 - SHIPPING, NAVIGATION AND PORT DEVELOPMENT

Council recognizes that the Port is an integral and important element to the social and economic fabric of the City and surrounding region and accordingly, it is the general intent of this Plan to recognize the role of the Port in this respect and in particular, the activities of The Hamilton Harbour Commissioners in carrying out their mandate of Shipping, Navigation and Port Development.

- 2.1.11 The primary permitted uses in the areas designated on Schedule 'A' as Shipping, Navigation and Port Development shall include, but not be limited to the following uses: uses which relate to the movement, management, safety and convenience of ships; uses involving the carriage of goods or passengers to other modes of transportation; related storage and processing; vessel and barge docks; industry and commerce related or complementary to, or necessary to the port; recreational boat facilities; and, the provision of services such as security, employment, immigration, labour, administration, technical, food, fuel, and maintenance."

We feel that like other land uses in the municipality, the Shipping, Navigation and Port Development land uses should also be protected from adjacent, potentially conflicting land uses. Accordingly, the following policy is proposed which is similar to that found in the Industrial Uses land use designation in the Official Plan:

- "2.1.12 Council shall ensure that other land uses which are proposed and which abut the areas designated on Schedule 'A' as Shipping, Navigation and Port Development are compatible with those uses set out in policy 2.1.11 and will protect the uses set out in policy 2.1.11 from other uses or other adverse impacts through the provision of adequate separation, screening, barriers, fencing and landscaping or other like measures."

We believe that the Shipping, Navigation and Port Development designation should also be afforded the same policies as that found in other designations in the Official Plan respecting the provision of public services (policy 2.2.29, for example). We therefore, propose the following policy:

- "2.1.13 In order to enhance the viability of the Shipping, Navigation and Port Development designation, Council, where feasible and deemed appropriate, shall encourage and assist in the establishment and/or maintenance of the Port through the provision of highways, arterial roads, rail and public transit services."

#### **Modification 3**

No comment.

#### **Modification 4**

No comment.

#### **Modification 5**

At the outset, we are very concerned and disappointed that the land use designation and associated policies of Landfill Constraint Areas have been developed and proposed as part of modifications, and not as an amendment, without any consultation with The Hamilton Harbour Commissioners or the public. From a planning perspective, we are very surprised that no public meeting or other form of public consultation is proposed.



From our discussions and meeting with staff of the Ministry of the Environment, we understand that no technical reviews or investigations have been completed to determine the age, actual extent, contents, potential impacts, if any, and even existence of the identified landfill areas. We understand that the areas were identified by university students and through conversations with Regional and City staff.

Consequently, it is our position that prior to the designation of lands and surrounding areas, detailed field studies and research must be undertaken to verify the above information.

We are also concerned that the placement of the designation on lands of the Harbour Commissioners may lead to confusion given the various levels of government involved. In this respect, we request that the 500 metre zone be illustrated only on lands not owned by The Hamilton Harbour Commissioners since the Commissioners have their own internal procedures for the assessment, evaluation and screening of developments, capital works or changes in use. This code of practice is consistent with and will follow any and all applicable federal legislation and guidelines.

In summary, detailed investigations should first be completed. If the results demonstrate a need for further action, public consultation should occur. This consultation should ensure that any official plan amendments are co-ordinated with and take into account actions and plans of The Hamilton Harbour Commissioners with respect to these lands.

#### Modification 6

No comment.

#### Modification 7

This proposed modification is of some value, however the term bona fide should not be used since it will undoubtedly only lead to confusion as to what is bona fide shipping and navigation and what is not. We propose the following:

- "iii) shipping, navigation and port development uses by The Hamilton Harbour Commissioners, without purporting to limit the jurisdiction of the Parliament of Canada, the federal government, or The Hamilton Harbour Commissioners acting within the scope of the lawful jurisdiction in respect of shipping, navigation and port development matters in accordance with subsection D.8."

#### Modification 8

No comment.

**Modification 9**

No comment.

**Modification 10**

- i) The new designation should read "Shipping, Navigation and Port Development";
- ii) We have previously advised the Region and the City that the "Open Space" land use designation on Pier 8 is totally inappropriate since the Commissioners have no intent of using the terminal facility for anything but a shipping terminal within the planning horizon of the official plan. The "Open Space" designation does not recognize the investment and the current viable and successful use of the site, nor does it recognize the orderly development of shipping, navigation and port development activities.
- iii) Pier 24 and the Windermere Basin area should also be redesignated to "Shipping, Navigation and Port Development" since they are either now or will soon be part of viable shipping and port development components of The Hamilton Harbour Commissioners.
- iv) Finally, if any area of the port should be designated as "Shipping, Navigation and Port Development", it should be the open waters of the harbour. The harbour itself is used only for shipping and navigation uses and is fully under the ownership and control of The Hamilton Harbour Commissioners. Moreover, the reference in policy A.2.5.1 of the Official Plan to Ontario Regulation 118/70, as amended, is no longer applicable to the placement of fill materials in the Harbour. In Regina v. Hamilton Harbour Commission, June 10, 1977, Provincial Judge Ross Bennett on page 8 determined that:

"the legislation referred to in the Information is ultra vires in the Hamilton Regional Conservation Authority (sic) and the Province of Ontario, so far as it relates to that area described in schedule five of the regulations."

**Modification 11**

See comments under the heading 'Modification 5'.

**Modification 12**

No comment.

**Other Comments**

We recommend that Policy D.8.4 be deleted and replaced with the following policy:

"D.8.4      This Plan does not prohibit or otherwise attempt to regulate the use of land or Hamilton Harbour by The Hamilton Harbour Commissioners for shipping, navigation or port development purposes, as provided herein."

We recommend that Policy D.8.5 be amended by deleting the word bona fide and adding the words "and port development uses" after the word navigation since, as previously noted, the term bona fide will only lead to confusion and interpretation problems during the implementation of the official plan.

Should you wish to meet to discuss our comments and recommendations, please contact us at your convenience.

Yours very truly,

**THE HAMILTON HARBOUR COMMISSIONERS**

  
J. BROOKFIELD  
PORT PLANNER

Enclosure

cc: Mr. Stanley Makuch  
Borden & Elliot  
Barristers and Solicitors

jsb/smp/125



Appendix "C" as referred to  
in Section 2F(a) of the minutes of  
The Planning and Development  
Committee held 1992 August 19



Legend



Site of the Application



Appendix "D" as referred to  
in Section 2F(d)(i) of the minutes of  
The Planning and Development  
Committee held 1992 August 19

The Draft Conformity Order

Policy and Schedule Modifications  
to the City of Hamilton Official Plan

**ORDER MADE UNDER  
THE NIAGARA ESCARPMENT PLANNING AND DEVELOPMENT ACT,  
R.S.O. 1990, CHAPTER N. 2**

**ORDER**

Under subsection 15(2) of the Niagara Escarpment Planning and Development Act,

**IT IS ORDERED THAT**

The Official Plan for the City of Hamilton is amended as follows:

- 1) Amend Subsection A.2.3 - Industrial Uses by adding the following new clause:

"A.2.3.38 Notwithstanding the foregoing, Industrial Uses are not permitted on lands designated Escarpment Natural Area and Escarpment Protection Area in the Niagara Escarpment Plan, as identified by Special Policy Area "1a" and "1b" on Schedule "B" - Special Policy Areas.

Within this area, existing industrial uses are recognized. Minor expansions, as well as changes in the use and replacements, may be permitted where it can be demonstrated that the objectives of the applicable Niagara Escarpment Plan designation are met."

- 2) Amend Subsection A.2.4 - Open Space by adding the following additional paragraph to the end of Clause A.2.4.2:

"Notwithstanding the foregoing, limited commercial uses which are ancillary to and support the primary OPEN SPACE use are not permitted on lands designated OPEN SPACE on Schedule "A" which are designated Escarpment Natural Area and Escarpment Protection Area in the Niagara Escarpment Plan, as identified by Special Policy Area "1a" and "1b" on Schedule "B" - Special Policy Areas."

- 3) Amend Subsection A.2.6 - Major Institutional Uses by adding the following new clause:

"A.2.6.6 Notwithstanding Policy A.2.6.1, only small-scale institutional uses are permitted on lands designated INSTITUTIONAL on Schedule "A" which are



designated Escarpment Natural Area and Escarpment Protection Area in the Niagara Escarpment Plan, as identified by Special Policy Area "1a" and "1b" on Schedule "B" - Special Policy Areas. In this context, "small-scale" means a building having a floor area of not more than 460 m<sup>2</sup> (5,000 square feet)."

- 4) Amend Subsection A.2.7 - Utility Uses by adding the following new clause:

"A.2.7.6 Notwithstanding the foregoing, within the Escarpment Natural Area, as identified by Special Policy Area "1a" on Schedule "B" - Special Policy Areas, only essential utility facilities are permitted. Within the Niagara Escarpment Plan Area, "essential" means that which is deemed necessary to the public interest after all alternatives have been considered."

- 5) Amend Subsection A.2.9.1 - Niagara Escarpment by deleting the entire subsection and replacing it with the following:

"It is the intent of this Plan to preserve the valuable attributes of the NIAGARA ESCARPMENT throughout the City, to recognize the potential of so doing through the actions of the NIAGARA ESCARPMENT Commission, and to conform with the policies of the NIAGARA ESCARPMENT Plan.

A.2.9.1.1 The City of Hamilton Official Plan has been brought into conformity with the Niagara Escarpment Plan, as approved by Provincial Cabinet in June, 1985 and subsequent Amendments approved prior to January, 1992. In the event of conflict between this Plan and any policies of the Niagara Escarpment Plan, the more restrictive policies will prevail.

A.2.9.1.2 The lands shown on Schedule "B" as SPECIAL POLICY AREA 1 are located within the Niagara Escarpment Plan. To implement the Niagara Escarpment Plan, SPECIAL POLICY AREA 1 is subdivided, as shown on Schedule "B", into Special Policy Areas "1a", "1b" and "1c".

The outer boundary of the area covered by the Niagara Escarpment Plan is fixed and inflexible, and can be changed only by an Amendment to the Niagara Escarpment Plan. The internal boundaries between designations within the Niagara Escarpment Plan, however, are less definite except where they

are formed by such facilities as roads, railways and electrical transmission lines. The exact delineation of designation boundaries on specific sites will be done by the implementing body through the application of the designation criteria contained in the Niagara Escarpment Plan utilizing the most detailed or up-to-date information available and site inspections. Such designation boundary interpretations will not require amendments to the Niagara Escarpment Plan."

A.2.9.1.3 The following policies apply to the areas shown on Schedule "B" - Special Policy Areas as Special Policy Areas "1a", "1b" and "1c":

1) Special Policy Area "1a" - Escarpment Natural Area - is based on maintaining the most natural Escarpment features, stream valleys, wetlands, related significant natural areas as well as maintaining and enhancing the landscape quality of Escarpment features. Compatible recreation and conservation activities will be encouraged. Accordingly, the permitted uses will include:

- existing uses;
- non-intensive recreation uses relating to nature viewing and trail activities (excluding the use of trail bikes or all-terrain vehicles);
- forest, wildlife and fisheries management;
- archaeological activities;
- essential transportation and utility facilities;
- essential watershed management and flood and erosion control projects;
- accessory buildings, structures and facilities (e.g., garage) to support the permitted uses as well as site modifications required to accommodate them; and,
- uses permitted in approved park master or management plans.

New lots may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body.

- ii) Special Policy Area "1b" - Escarpment Protection Area - encompasses Escarpment features that have been significantly modified by land use activities such as agriculture or residential development, land needed to buffer prominent Escarpment Natural Areas, and natural areas of regional significance. In addition, the Escarpment Protection Area policies are directed at maintaining the remaining natural features and the open, rural landscape character of the Escarpment and lands in its vicinity. Agriculture, forestry and recreation will be encouraged. Accordingly, the permitted uses will include:

- existing uses;
- recreational uses which are oriented to the land rather than requiring the building of major structures;
- forest, wildlife and fisheries management;
- archaeological activities;
- transportation and utility facilities;
- watershed management and flood and erosion control projects; and,
- accessory buildings, structures and facilities (e.g., garage) to support the permitted uses as well as site modifications required to accommodate them.

New lots may be created for the purpose of correcting conveyances, enlarging existing lots, or through acquisition by a public body (provided no new building lot is created).

- iii) Special Policy Area "1c" - Urban Area - is based on minimizing the impact and further encroachment of urban growth on the Escarpment environment. Accordingly, the following development objectives are paramount:

- a) All development will be of an urban design compatible with the visual and natural environment of the Escarpment. Where appropriate, provision for



adequate setbacks and screening should be required to minimize the visual impact of urban development on the Escarpment landscape.

- b) New development will not encroach into the Escarpment Natural or Escarpment Protection Areas.
- c) New lots will not be created to include the Escarpment Natural or Escarpment Protection Areas.
- d) Lots will not be enlarged to extend into the Escarpment Natural or Escarpment Protection Areas in order to provide for more development.
- e) New lots may include the Escarpment Natural or Escarpment Protection Area designation under the following circumstances:
  - (i) correcting conveyances;
  - (ii) where the land in the Escarpment Natural Area or Escarpment Protection Area is to be acquired by a public body; and,
  - (iii) enlarging existing lots provided no further fragmentation of the Escarpment Natural Area or Escarpment Protection Area would result and provided there is sufficient area in the Urban Area to accommodate the proposed development.
- f) Adequate public access to the Escarpment will be provided by such means as parking areas, walkways or pedestrian trails (e.g., Bruce Trail).
- g) Development proposals will be compatible with and provide for the protection or restoration of historic features or areas, archaeological sites and structures of architectural significance.

- h) Growth will be compatible with and provide for the protection of unique ecologic areas, wildlife habitats, streams and water supplies and other environmentally sensitive areas both inside and adjacent to Urban Areas.

A.2.9.1.4 It is intended that Development within Special Policy Area "1c" - Urban Area -will be subject to Zoning and Site Plan Control. In the interim, a Development Permit will be required from the Niagara Escarpment Commission, as determined by Ontario Regulation 685/80, until such time as the City is delegated this responsibility.

A.2.9.1.5 Special Policy Area "1a" - Escarpment Natural - and Special Policy Area "1b" -Escarpment Protection - fall within the Development Control Area, regulated by the Niagara Escarpment Commission (N.E.C.) as defined by Ontario Regulation 685/80 as amended. Any change in use of any land, building or structure requires a Development Permit from the N.E.C., including the construction, alteration or demolition of a building or structure, unless specifically exempted by the regulations.

A.2.9.1.6 All proposals for development occurring in the Niagara Escarpment Plan Area (Special Policy Areas "1a", "1b" and "1c") will conform to the policies, permitted uses and Development Criteria outlined in the Niagara Escarpment Plan.

A.2.9.1.7 All proposals for development in the Niagara Escarpment Plan Area, will conform to the Official Plan of the City of Hamilton and the Official Plan of the Regional Municipality of Hamilton-Wentworth and requirements established by the Niagara Escarpment Plan. In the event of conflict between the policies of this Plan, the Regional Plan and the Niagara Escarpment Plan, the more restrictive policies will prevail.

A.2.9.1.8 Council will not support non-essential developments which will detract from the unique visual and scenic qualities of the brow face or base of the Niagara Escarpment or lands in its vicinity.

A.2.9.1.9 Council will co-operate with the Ministry of Natural Resources to ensure the development and administration of the Niagara Escarpment Parks System, including the Mount Albion Conservation Area, fulfils the following objectives:

- i) to protect the most significant features of the natural and cultural landscape of the Niagara Escarpment area;
- ii) to provide a wide variety of Escarpment-related outdoor recreation opportunities;
- iii) to provide opportunities for exploration and appreciation of the natural and cultural heritage of the Niagara Escarpment; and,
- iv) to support tourism by providing opportunities for discovery and enjoyment by Ontario's residents and visitors.

A.2.9.1.10 Council may investigate and support the provision of walkways along and across the Escarpment in order to permit pedestrian access between the Lower and Upper City.

A.2.9.1.11 Council will encourage the responsible authorities to undertake appropriate measures to preserve the integrity of the remaining natural areas of the Niagara Escarpment and lands in its vicinity.

A.2.9.1.12 Council recognizes the importance of the Bruce Trail as a way of exploring and appreciating the natural and cultural heritage of the Niagara Escarpment."

6) Amend Subsection A.2.9.3 - Other Policy Areas as follows:

(a) Add the following new Clause to A.2.9.3.1 for Special Policy Area 3:

- "xiii) Any development on lands within the Niagara Escarpment Plan must be in accordance with the permitted uses and Development Criteria outlined in the Niagara Escarpment Plan, in addition to the above policies. In this regard, proponents for development or redevelopment within these designated lands are encouraged to consult the Niagara Escarpment Commission in regard to



suitability and compatibility with the objectives, permitted uses and development criteria of the Niagara Escarpment Plan."

- (b) Add the following new Clause paragraph to the end of Clause A.2.9.3.5 for Special Policy Area 7:

"Any development within this area must be in accordance with the permitted uses and Development Criteria outlined in the Niagara Escarpment Plan, in addition to the above policies. In this regard, proponents for development or redevelopment within these designated lands are encouraged to consult the Niagara Escarpment Commission in regard to suitability and compatibility with the objectives, permitted uses and development criteria of the Niagara Escarpment Plan."

- (c) Add the following additional paragraph to the end of Clause A.2.9.3.9 for Special Policy Area 11:

"Any development on lands within the Niagara Escarpment Plan must be in accordance with the permitted uses and Development Criteria outlined in the Niagara Escarpment Plan, in addition to the above policies. In this regard, proponents for development or redevelopment within these designated lands are encouraged to consult the Niagara Escarpment Commission in regard to suitability and compatibility with the objectives, permitted uses and development criteria of the Niagara Escarpment Plan."

- 7) Amend Subsection A.3.1 - Hazard Lands by adding the following new clause:

"A.3.1.4 Certain lands within the City of Hamilton which form SPECIAL POLICY AREA 1 ("1a", "1b" and "1c") on Schedule "B" - Special Policy Areas - are recognized as having inherent environmental hazards such as flood and erosion susceptibility. These areas are schematically shown as HAZARD LANDS on Schedule "C" to this Plan. In this regard, any development must be in accordance with the permitted uses and the Development Criteria outlined in the Niagara Escarpment Plan, in addition to the above policies. Proponents for development or redevelopment within these designated lands are encouraged

to consult the Niagara Escarpment Commission in regard to suitability and compatibility with the objectives, permitted uses and development criteria of the Niagara Escarpment Plan."

- 8) Amend Subsection A.3.2 - Environmentally Sensitive Areas by adding the following new clause:

"A.3.2.10 Certain lands within the City of Hamilton which form SPECIAL POLICY AREA 1 ("1a", "1b" and "1c") on Schedule "B" - Special Policy Areas - are recognized as being ecologically significant. These areas are schematically shown as ENVIRONMENTALLY SENSITIVE on Schedule "D" to this Plan. In this regard, any development must be in accordance with the permitted uses and the Development Criteria outlined in the Niagara Escarpment Plan, in addition to the above policies. Proponents for development or redevelopment within these designated lands are encouraged to consult the Niagara Escarpment Commission in regard to suitability and compatibility with the objectives, permitted uses and development criteria of the Niagara Escarpment Plan."

- 9) Amend Subsection A.3.3 - Non-Complying Uses by adding the following new clause:

"A.3.3.5 Notwithstanding the foregoing, those uses within the area of the Niagara Escarpment Plan, as shown as SPECIAL POLICY AREA 1 ("1a", "1b" and "1c") on Schedule "B" - Special Policy Areas, which do not conform to the permitted uses contained in the Niagara Escarpment Plan shall be recognized as "existing uses". In addition to Policy A.3.3.1, an existing use may expand, change its use or be replaced, when it can be demonstrated that the objectives of the applicable designation of the Niagara Escarpment Plan are met."

- 10) Amend Subsection A.3.4 - Division of Land by adding the following new clause:

"A.3.4.2 Any Division of Land within the Niagara Escarpment Plan, as shown as SPECIAL POLICY AREA 1 ("1a", "1b" and "1c") on Schedule "B" - Special Policy Areas, must conform to New Lots Policies of the

relevant Niagara Escarpment Plan designation contained in Policy A.2.9.1.3 of this Plan, as well as the Development Criteria contained in the Niagara Escarpment Plan."

11) Amend Subsection B.3.1 - Road Network by:

(a) Adding the following additional paragraph to Clause B.3.1.18:

"Notwithstanding the foregoing, temporary licensed wayside pits or quarries for the construction and maintenance of public roads are not permitted on lands designated Escarpment Natural Area and Escarpment Protection Area in the Niagara Escarpment Plan, as identified by Special Policy Area "1a" and "1b" on Schedule "B" - Special Policy Areas."

(b) Adding the following new clause to the subsection:

"B.3.1.21 Notwithstanding the foregoing policies of this Subsection, only essential transportation facilities will be permitted within the Escarpment Natural Area, as identified by Special Policy Area "1a" on Schedule "B" - Special Policy Areas. In addition, all transportation facilities proposed within the area of the Niagara Escarpment Plan must conform to the policies of that Plan."

12) Amend Subsection D.8 - Interpretation by adding the following new clause:

"D.8.6 The lands shown on Schedule "B" as SPECIAL POLICY AREA 1 ("1a", "1b" and "1c") are located within the Niagara Escarpment Plan. Any development within this area must be in accordance with the permitted uses and Development Criteria outlined in the Niagara Escarpment Plan. In this regard, proponents for development or redevelopment within these designated lands are encouraged to consult the Niagara Escarpment Commission in regard to suitability and compatibility with the objectives, permitted uses and development criteria of the Niagara Escarpment Plan."

13) Amend Schedule "B" - Special Policy Areas by delineating the Escarpment Natural Area, Escarpment Protection Area and Escarpment Urban Area in accordance with the attached modified Schedule "B".



# special policy areas

AREA  
REFER TO  
POLICY

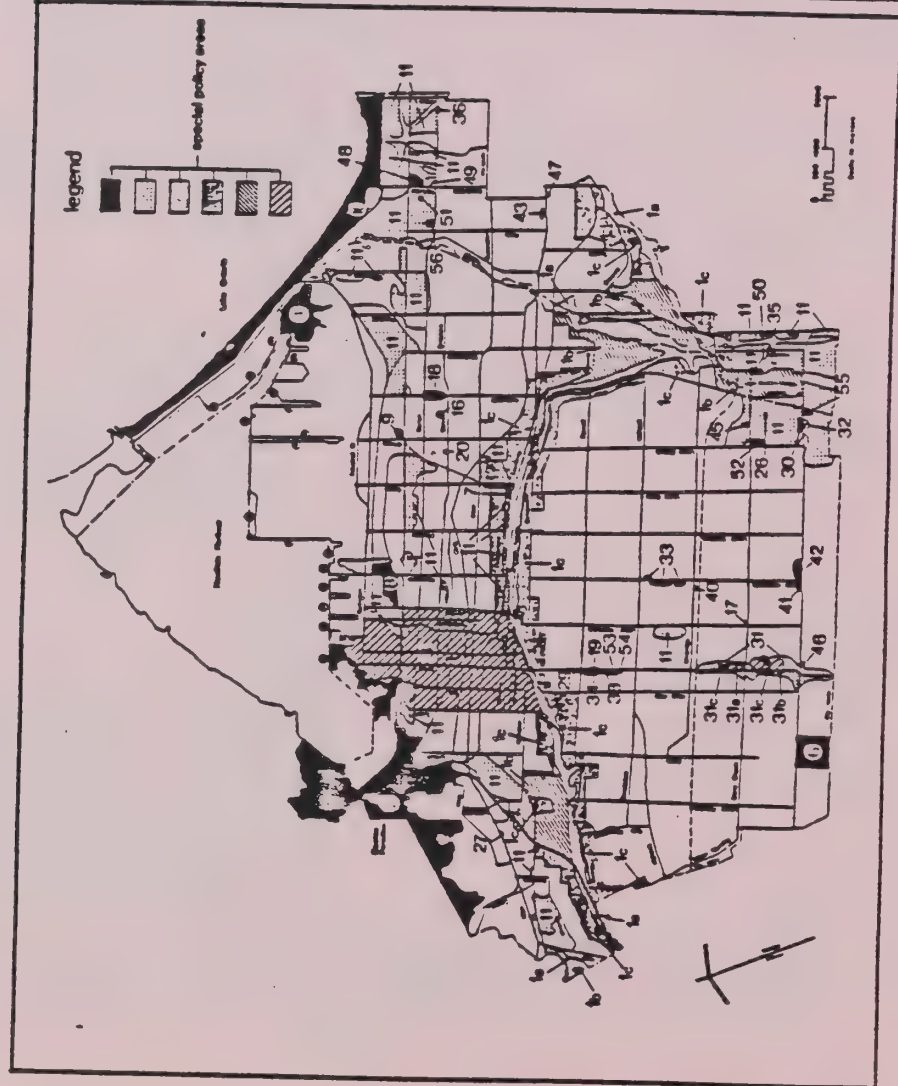
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Refer to Schedule B for Special Policy Areas  
in the City of Hamilton

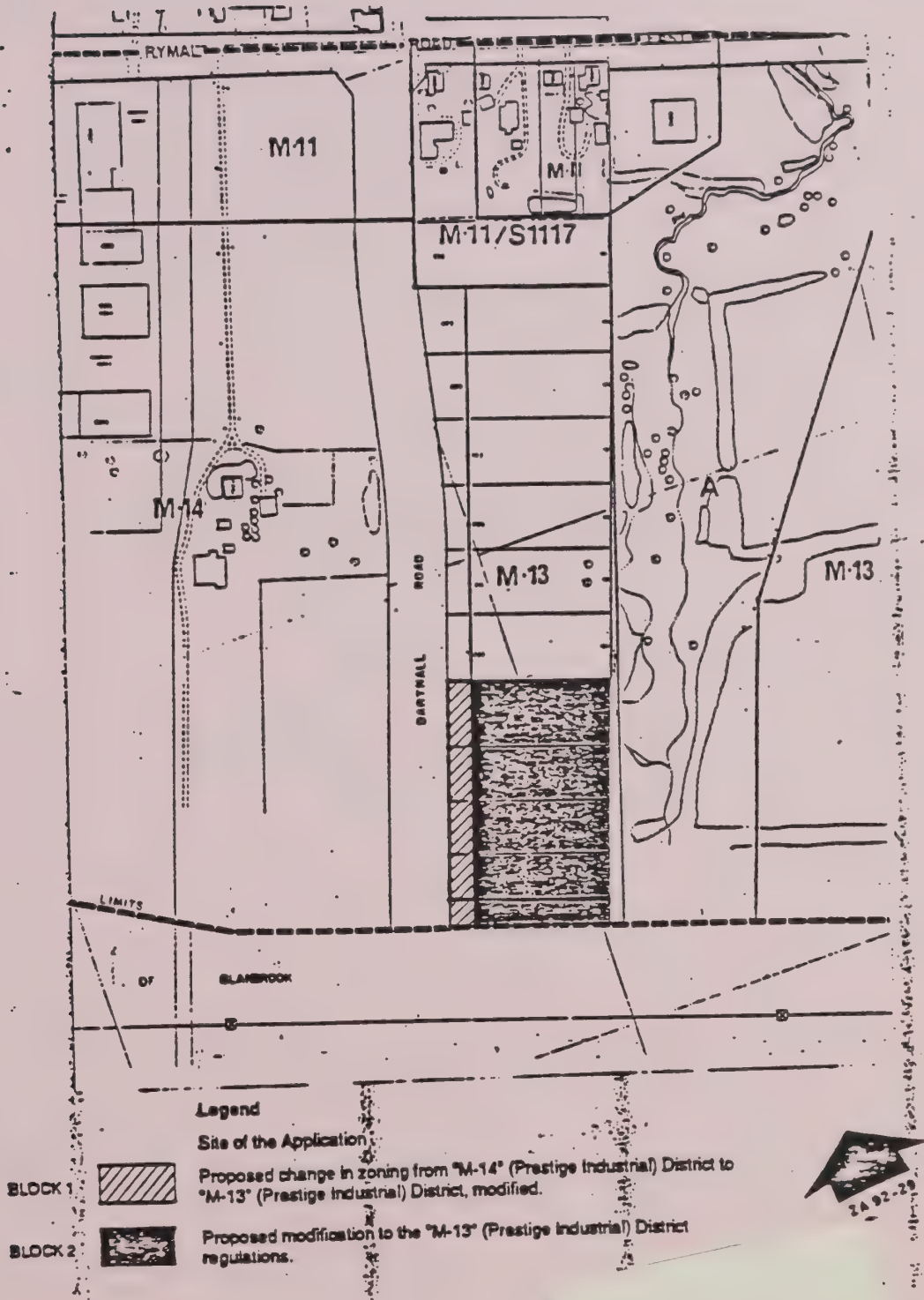
## schedule B

to the official plan  
for  
the city of Hamilton

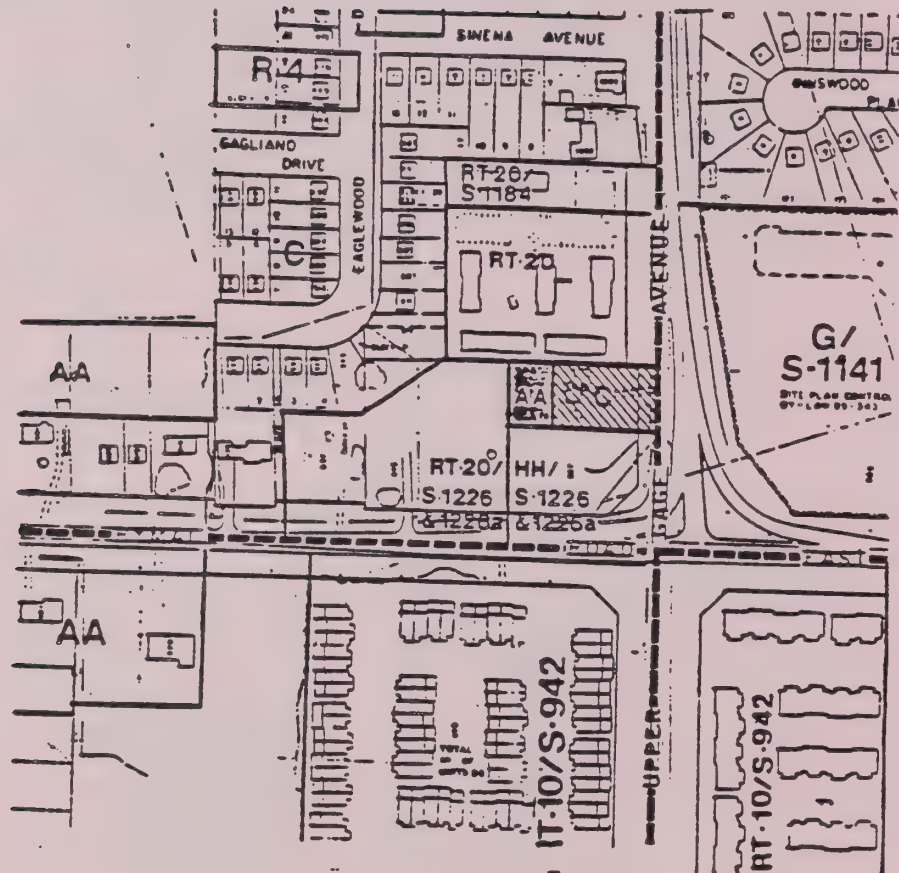
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Appendix "E" as referred to  
in Section 6 of the minutes of  
The Planning and Development  
Committee held 1992 August 19





Appendix "F" as referred to  
in Section 7(b) of the minutes of  
The Planning and Development  
Committee held 1992 August 19



Legend



- Proposed change in zoning from:
- BLOCK 1  "AA" (Agricultural) District to "HH" (Restricted Community Shopping and Commercial) District, modified.
- BLOCK 2  "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District, modified.

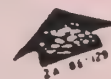


The image is a technical architectural site plan for a residential development. It shows a complex arrangement of apartment buildings, parking areas, and streets. Key features include:

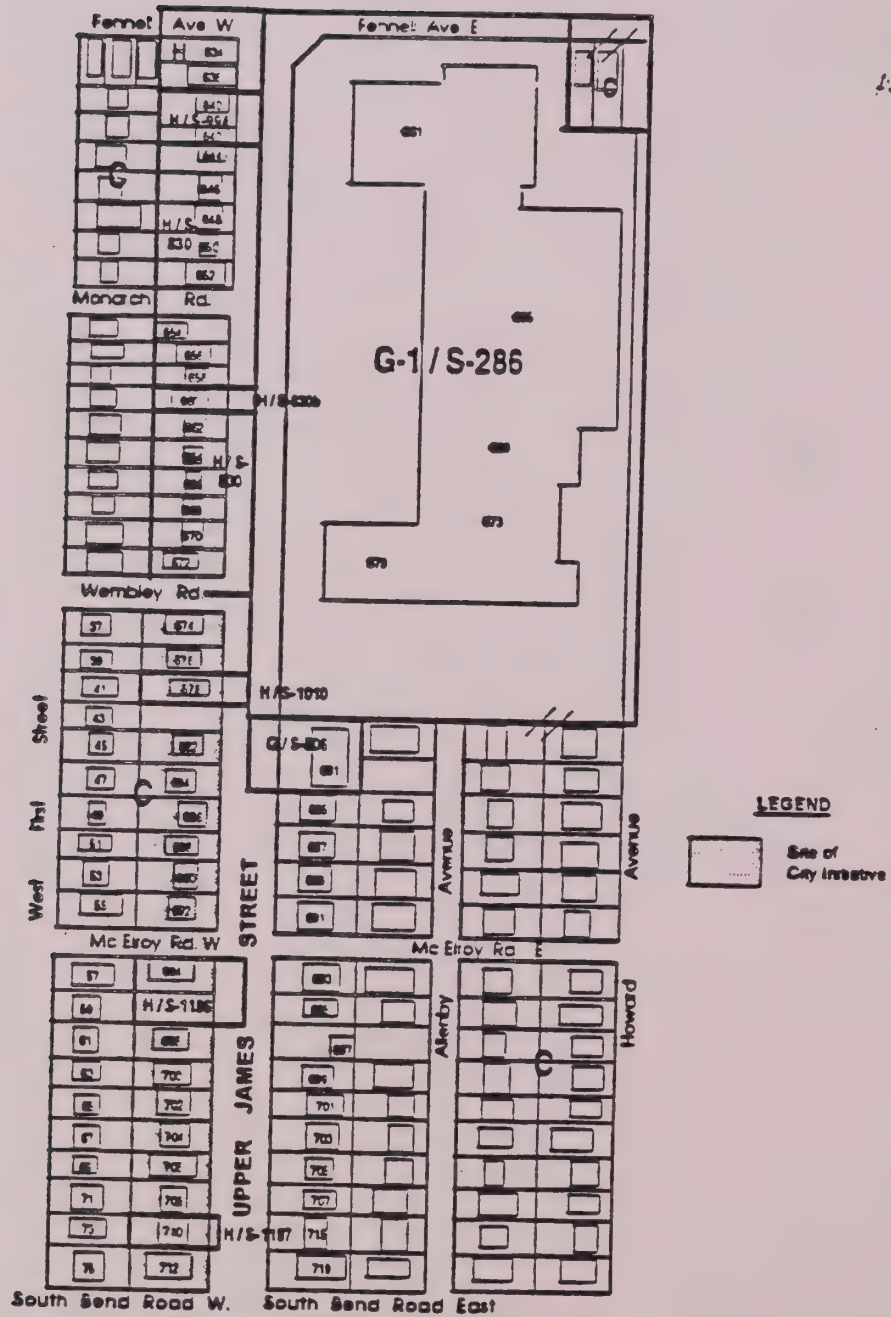
- Buildings:** Several apartment buildings are depicted, including 'BEAUMTE COURT' (labeled D/S-600), 'RT. 20', 'E-2/S-573', 'C/S-573', 'E-2/S-620', and 'AA'. The buildings are shown with internal room layouts and exterior walls.
- Parking and Storage:** A 'PARKING LOT' and a 'GARAGE' are indicated, showing designated spaces for vehicles.
- Streets and Access:** The plan shows a network of streets, including 'STREET' and 'GARAGE STREET'. Access points to the buildings and parking areas are clearly marked.
- Orientation:** A north arrow is present, indicating the orientation of the plan with 'N' at the top.
- Technical Details:** The drawing uses various line styles and symbols to represent different building components, such as walls, windows, doors, and parking spaces. Text labels are used throughout to identify specific areas and buildings.



### Site of the Application



Appendix "H" as referred to  
in Section 9(b)B of the minutes of  
The Planning and Development  
Committee held 1992 August 19



The map shows a grid of streets. Fennell Ave W runs horizontally at the top, and Fennell Ave E runs horizontally at the bottom. A large, irregularly shaped area in the center is labeled 'G-1 / S-286'. To the left of this area, there are several blocks of buildings. One block is labeled 'G-1 / S-286' and contains several small squares representing buildings. Another block is labeled 'G-1 / S-286' and contains several small squares representing buildings. A legend in the bottom right corner indicates that a square symbol represents a 'Site of City Initiative'.

**LEGEND**

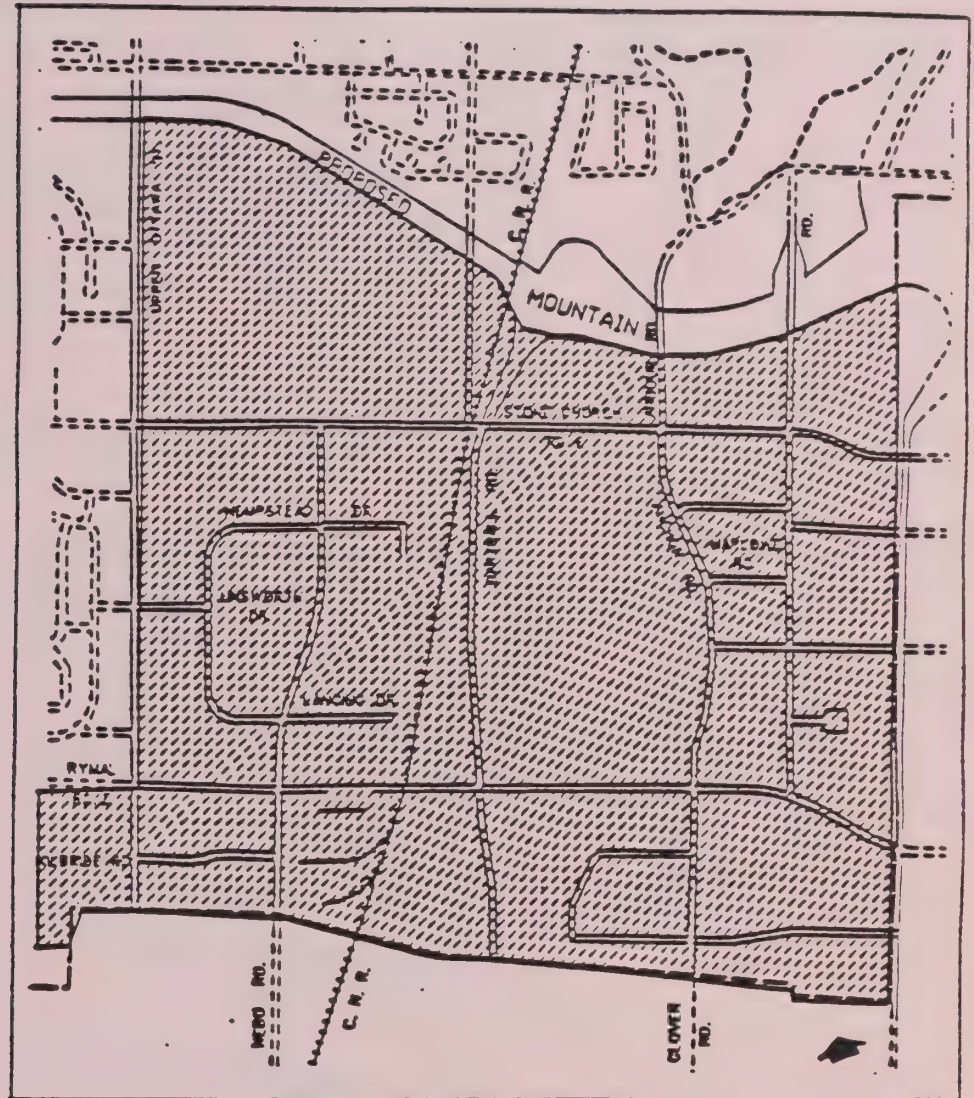
□ Site of City Initiative



[illegible]

2A-92-26

Appendix "K" as referred to  
in Section 11B of the minutes of  
The Planning and Development  
Committee held 1992 August 19



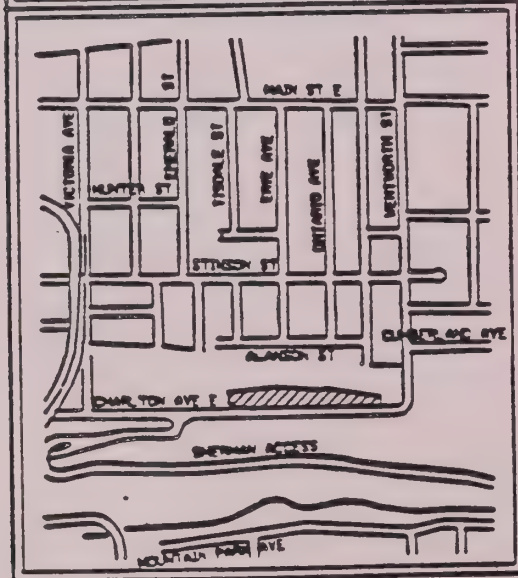
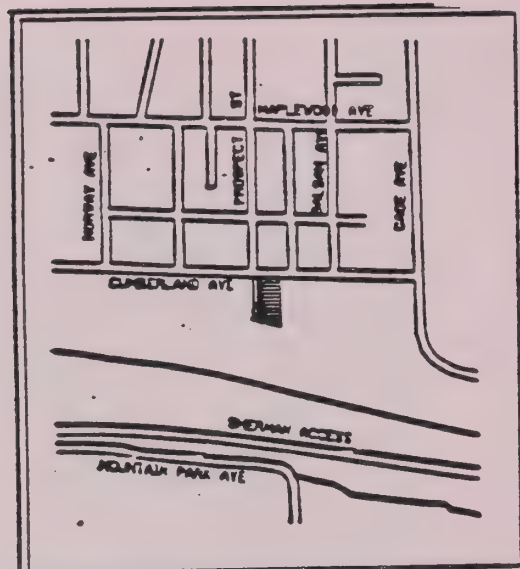
**M DISTRICT STUDY**  
(Prestige Industrial)

DATE : NOVEMBER 1991

--- City Boundary  
Reference File No. C-91-A

 M DISTRICT

City of Hamilton  
Planning &  
Development  
Department



## M DISTRICT STUDY

( Prestige Industrial )

**City of Hamilton  
Planning &  
Development  
Department**

457 Charlton Avenue

408 Cumberland Avenue

Reference File No. C-9-A

DATE : NOVEMBER 1991



PUBLIC USES

Appendix "M" as referred to  
in Section 11B(a) of the minutes of  
The Planning and Development  
Committee held 1992 August 19

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
Federal Government Service	X	X			
Provincial Government Services	X	X			
Regional and Local Government Services	X	X			
International and Extra Territorial Government Services	X	X			
Library Services			X		
Museums and Archives			X		
Sports and Recreation Clubs and Services			X		
Botanical and Zoological Gardens			X		
Other Amusement and Recreational Services except agricultural fairs, fortune tellers, go kart tracks, horseback riding operations riding schools, trainers - all types			X		
Business Associations	X	X	X		
Professional Membership Associations	X	X	X		
Labour Organizations	X	X	X		
Political Organizations	X	X	X		
Civic and Fraternal Organizations	X	X	X		
Animal Shelters			X		

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82/08/12

Appendix "N" as referred to  
in Section 11B(a) of the minutes of  
The Planning and Development  
Committee held 1992 August 19

COMMERCIAL USES

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
Project Management Construction		X	X	X	X
Other Services Incidental to Construction		X	X	X	X
Truck Transport Industries		X	X	X	X
Public Passenger Transit Systems Industries				X	X
Other Storage and Warehousing Industries with ancillary retail not to exceed 49% of the gross floor area of building		X	X	X	X
Telecommunication Broadcasting Industries		X	X	X	X
Postal and Courier Service Industries	X	X			
Wholesaling:					
Food, beverage, drug and tobacco		X	X	X	X
Apparel and dry goods		X	X	X	X
Household Goods		X	X	X	X
Motor Vehicle Parts and Accessories except rebuilding, recapping, retreading or vulcanized tires		X	X	X	X
hardware and plumbing and air conditioning equipment and supplies		X	X	X	X
lumber and building materials		X	X	X	X
machinery, equipment and sales		X	X	X	X
paper and paper products		X	X	X	X

COMMERCIAL USES

8

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
agricultural supplies		X	X		
toys, amusement and sporting goods		X	X		
photographic equipment and musical instruments and supplies		X	X		
jewellery and watches		X	X		
industrial and household chemicals		X	X		
general merchandise		X	X		
books, periodicals and newspaper		X	X		
second hand goods except automotive and machinery		X	X		
Retail Stores selling:					
food	X				
liquor, wine, beer	X				
prescription drugs, and medicine	X				
household furniture, appliances and furnishings except furniture finishing and repair	X	X			
furniture refinishing and repair	X	X	X		
general merchandise	X				
books and stationary	X				
hardware, paint, wallpaper, and glass	X	X			
sporting goods and bicycles	X				



COMMERCIAL USES

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
musical instruments and records	X				
camera and photographic supplies	X				
toy, hobby, novelty and souvenirs	X				
other retail stores	X				
Gasoline Service Stations	X				
Recreation Vehicle Dealers	X	X			X
Automotive Parts and Accessories Store	X	X			
Motor Vehicle Repair Shops except paint and autobody repair shop	X				X
Paint and Autobody Repair Shop					X
Other Motor Vehicle Services except car washes selling gasoline	X				
Other Motor vehicle services including car washes selling gasoline	X				
Lawn and Garden Centres with a maximum of 25% of lot area to be used for outside storage and sales area	X	X			
Vending Machine Operators	X	X			
Direct sellers	X	X			
Finance and Insurance Industries	X	X			
Real Estate Operators and Insurance Agent Industries)	X	X			

COMMERCIAL USES

0

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
Employment Agencies and Personnel Suppliers	X	X			
Computer and related services	X	X	X		
Accounting and bookkeeping services	X	X	X		
Advertising services	X	X	X		
Architectural, Engineering, and Other Scientific and Technical Services	X	X	X		
Offices for:					
lawyers, notaries	X	X			
medical, dental	X	X			
health practitioners	X	X			
social services practitioners	X	X			
Management Consulting Services	X	X			
Other Business Services	X	X			
Post Secondary Non-University	X	X	X		
Medical and Health Laboratories	X	X	X		
Health and Social Service Associations and Agencies	X	X			
Food services except caterers	X				
Outdoor Patio in conjunction with food services (restaurant) only	X				
Caterers including banquet facilities	X	X			

COMMERCIAL USES

0

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
Motion Picture, Audio and Video Production and Distribution		X	X		
Regular Motion Picture Theatre			X		
Class H Adult Entertainment Parlour	X				
Bowling Alleys and Billiard Parlours			X		
Amusement park and Carnival Circus			X		
Dance Halls, studios and Schools			X		
Roller Skating Facilities			X		
Barber and Beauty Shops	X				
Laundries and cleaners except distributors and/or agents for dry cleaners, Self serve laundries and/or dry cleaners, and valet services, pressing and/or repairing				X	X
Distributors and/or agents for Dry Cleaners	X				
Self serve laundries and/or dry cleaners	X				
Valet Services, pressing and/or repairing	X				
Other Personal Household Services	X	X			
Machinery and Equipment Rental and Leasing Services		X	X	X	X
Automobile Truck Rental and Leasing Services					X



COMMERCIAL USES

5

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
Photographers	X	X			
Repair Services		X	X	X	X
Services to Buildings and Dwellings		X	X	X	X
Travel Services	X	X			
Veterinary Services			X		
Kennels			X		

02/05/13

Appendix "O" as referred to  
in Section 11B(a) of the minutes of  
The Planning and Development  
Committee held 1992 August 19

INDUSTRIAL USES

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
Fruit and Vegetable Industry				X	X
Dairy Products Industry				X	X
Bakery Products Industry				X	X
Sugar and Sugar Confectionary Industries except Cane and Sugar Beet Industry				X	X
Other Food Products Industries				X	X
Soft Drink Industry			X	X	X
Brewery, Distillery, Wine Industries				X	X
Rubber Products except Tire and Tube Industries				X	X
Leather and Allied Products Industries except leather tanneries		X	X	X	X
Primary Textile Industries				X	X
Textile Products Industries except carpets, mats, rugs industry		X	X	X	X
Clothing Industries		X	X	X	X
Sash, Door and Other Millwork Industries				X	X
Wooden Box and Pallet Industries				X	X
Coffin and Casket Industries				X	X
Other Wood Industries except Wood Preservation Industry				X	X
Furniture and Fixture Industries				X	X

## INDUSTRIAL USES

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
Paper Box and Paper Bag Industries			X	X	X
Printing, Publishing, and allied Industries		X	X	X	X
Fabricated Metal Products Industries - (Except Machinery and Transportation Equipment Industries) - except Power Boiler and Heat Exchanger Industry				X	X
Motor Vehicle Part and accessories Industries except firewall and leaf spring manufacturing				X	X
Boat Building and Repair Industry				X	X
Small Electrical Appliance Industry			X	X	X
Major Appliance Industry			X	X	X
Electric Lighting Industries			X	X	X
Record Player, Radio, Television Receiver Industry			X	X	X
Communication and other Electronic Equipment Industries			X	X	X
Office, Store and Business Machine Industries			X	X	X
Electrical industrial equipment Industries			X	X	X
Communications and Energy Wire and Cable Industries			X	X	X
Electrical Products Industries except Battery Industry			X	X	X
Clay Products Industries				X	X

## INDUSTRIAL USES

## APPENDIX "E"

USE NOT PROHIBITED	DISTRICT				
	M-11	M-12	M-13	M-14	M-15
Concrete Products Industries				X	X
Glass Products Industries except Glass Containers					X
Other Non-metallic Products Industries except asbestos and gypsum products				X	X
Pharmaceutical and Medicinal Products			X	X	X
Toilet Preparations Industry			X	X	X
Scientific and Professional Equipment Industries			X	X	X
Jewellery and Precious Metals Industries			X	X	X
Sporting Goods and Toy Industries			X	X	X
Sign and Display Industry			X	X	X
Manufactured Products Industries			X	X	X
Building, Developing, and General Contracting Industries			X	X	X
Industrial and Heavy (Engineering) Construction Industries			X	X	X
Trade Contracting Industries			X	X	X

edw:am

02/08/11



**CITY OF HAMILTON  
- RECOMMENDATION -**

RECEIVED

SEP 16 1992

CITY CLERKS

B.

**DATE:** 1992 September 16

**REPORT TO:** Ms. Tina Agnello, Secretary  
Planning and Development Committee

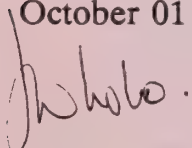
**FROM:** Mr. D. Lobo,  
Director of Public Works

**SUBJECT:** International Village B.I.A.  
1992 Schedule of Payments

**RECOMMENDATION:**

That the 1992 Schedule of Payments for the International Village Business Improvement Area be amended as follows:

February 01	\$ 9,893.33
April 01	\$ 9,893.33
June 01	\$ 9,893.33
August 01	\$ 9,893.33
October 01	\$19,786.67

  
\_\_\_\_\_  
Mr. D. Lobo,  
Director of Public Works

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

There are no direct costs to the City of Hamilton for any part of the B.I.A. Operating Budget.

**BACKGROUND:**

On 1992 January 14, City Council approved the 1992 Operating Budget for the International Village B.I.A. of \$59,360. along with six scheduled payments over 1992. The International Village B.I.A. have requested that their two final payments for October and December be combined to equal one payment of \$19,786.67.

JMcN:bk

cc: Mr. A. Ross, City Treasurer  
Treasury Department  
ATTN: Mr. T. Bradbury, Supervisor of Taxation



**CITY OF HAMILTON**  
**- RECOMMENDATION -**

Ca)

**RECEIVED**

SEP 15 1992

CITY CLERKS

**DATE:** 1992 September 15  
S718-78 P. Strong

**REPORT TO:** Mrs. T. Agnello, Secretary  
Planning and Development Committee

**FROM:** E. M. Gill, P. Eng.  
Senior Director  
Roads Department

**SUBJECT:** "RYMAL SQUARE ESTATES-PHASE 3", Hamilton  
(Cash Payment in Lieu of 5% Parkland Dedication)

**RECOMMENDATION:**

That the City of Hamilton accept the sum of \$93,750.00 as a cash payment in lieu of the 5% land dedication in connection with Rymal Square Estates - Phase 3, Hamilton, located between Upper Wentworth Street and Upper Sherman Avenue in the Butler Neighbourhood, being the cash payment required under Section 51 of the Planning Act.

*E. M. Gill*

E. M. Gill, P. Eng.

cont'd...

-Page 2-

DATE: 1992 September 15

**"RYMAL SQUARE ESTATES-PHASE 3", Hamilton  
(Cash Payment in Lieu of 5% Parkland Dedication)**

cont'd...

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

There are no financing costs associated with this report.

**BACKGROUND:**

**"RYMAL SQUARE ESTATES-PHASE 3", Hamilton**

The owner of Rymal Square Estates-Phase 3 (Rymal Square Developments Inc.) will be executing a Subdivision Agreement with the City of Hamilton in the near future.

In accordance with normal City procedure, City and Regional Staff have completed calculations for the cash payment in lieu of the 5% parkland dedication. The sum to be included in the subdivision agreement has been calculated to be \$93,750.00.

The lands of Rymal Square Estates-Phase 3 are located north of Rymal Road East between Upper Wentworth Street and Upper Sherman Avenue in the Butler Neighbourhood.

PS  
encl.

cc: D. Cobb, City Treasury  
cc: R. Buckle, City Real Estate Department







Cb)

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 15 1992

CITY CLERKS

**DATE:** 1992 September 14  
S716-33, S716-34  
S718-76, S718-77 M. Inrig

**REPORT TO:** T. Agnello, Secretary  
Planning and Development Committee

**FROM:** E. M. Gill, P. Eng.  
Senior Director  
Roads Department

**SUBJECT:**

Cash in Lieu of 5% Parkland Dedication for Primecan Estates, Paradise Gate Estates - Phase 1, The Gardens of Rymal - Phase 3 and The Gardens of Rymal - Phase 4, Hamilton

**RECOMMENDATION:**

- a) That the City of Hamilton accept the sum of \$24,690.00 as cash payment in lieu of the 5% land dedication in connection with "Primecan Estates", Hamilton, this being the cash payment required under Section 50 of the Planning Act.

The lands of "Primecan Estates" are located on the west side of Upper Wellington Street and on the south side of the proposed east/west portion of the Red Hill Expressway, in the Jerome Planning Neighbourhood.

- b) That the City of Hamilton accept the sum of \$30,160.00 as cash payment in lieu of the 5% land dedication in connection with "Paradise Gate Estates - Phase 1", Hamilton, this being the cash payment required under Section 50 of the Planning Act.

The lands of "Paradise Gate Estates - Phase 1" are located on the north side of Rymal Road West, east of Upper Paradise Road, in the Falkirk East Planning Neighbourhood.

Cont'd...

-page 2-  
1992 September 14

**Cash in Lieu of 5% Parkland Dedication for Primecan Estates, Paradise Gate Estates - Phase 1, The Gardens of Rymal - Phase 3 and The Gardens of Rymal - Phase 4, Hamilton**

Cont'd...

- c) That the City of Hamilton accept the sum of \$28,500.00, as cash payment in lieu of the 5% parkland dedication in connection with "The Gardens of Rymal - Phase 3", Hamilton and the sum of \$30,708.00 as cash payment in lieu of the 5% parkland dedication in connection with "The Gardens of Rymal - Phase 4", Hamilton, these being cash payments required under Section 50 of the Planning Act.

The lands of "The Gardens of Rymal - Phase 3" and "The Gardens of Rymal - Phase 4" are located on the west side of Upper Wentworth Street, south of Rymal Road East, in the Chappel West Planning Neighbourhood.

  
\_\_\_\_\_  
E.M. Gill, P.Eng.


***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

There are no financial costs to the City of Hamilton associated with this report.

***BACKGROUND:***

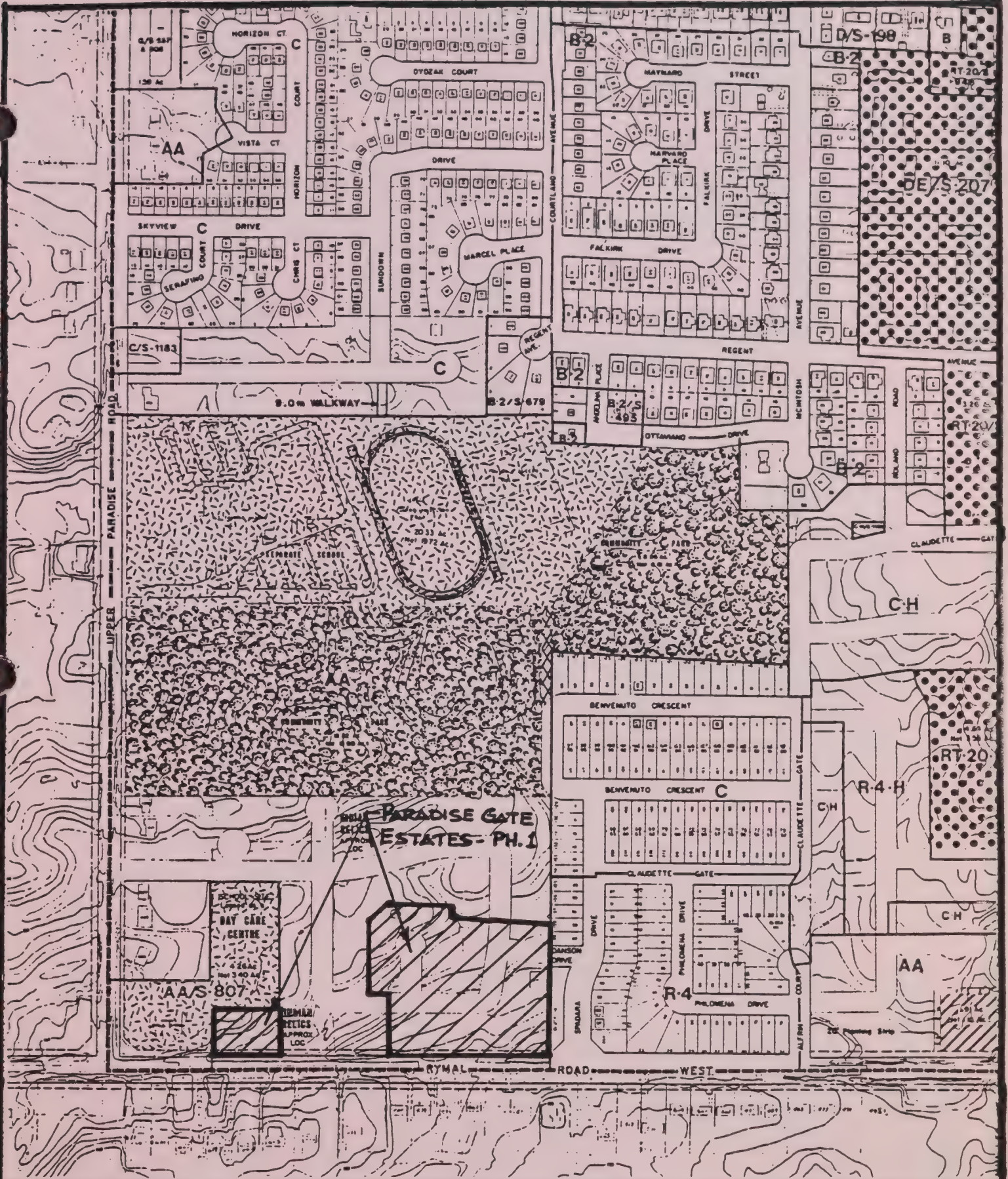
The Owners for "Primecan Estates" (Primecan Holdings Inc.), "Paradise Gate Estates - Phase 1" (Ginfil Construction Ltd.), "The Gardens of Rymal - Phase 3" and "The Gardens of Rymal - Phase 4" (Benemar Construction Inc.) will each be executing subdivision agreements with the City of Hamilton in the near future. A copy of the Final Plan of Subdivision for each development has been attached for your information.

In accordance with standard City Policy, City and Regional Staff have completed calculations for the 5% cash payments in lieu of parkland dedication. The amounts recommended in this report will be included in the City's subdivision agreement for each subdivision.

 MJI/md  
Attach.

cc: D. Cobb, City Treasury Department  
cc: R. Buckle, City Property Department





KEY PLAN

NTS



FALKIRK EAST

APPROVED PLAN



# SCHEDULE A

## Paradise Golf Estates

Phase 1

PART OF LOT 20  
CONCESSION 8

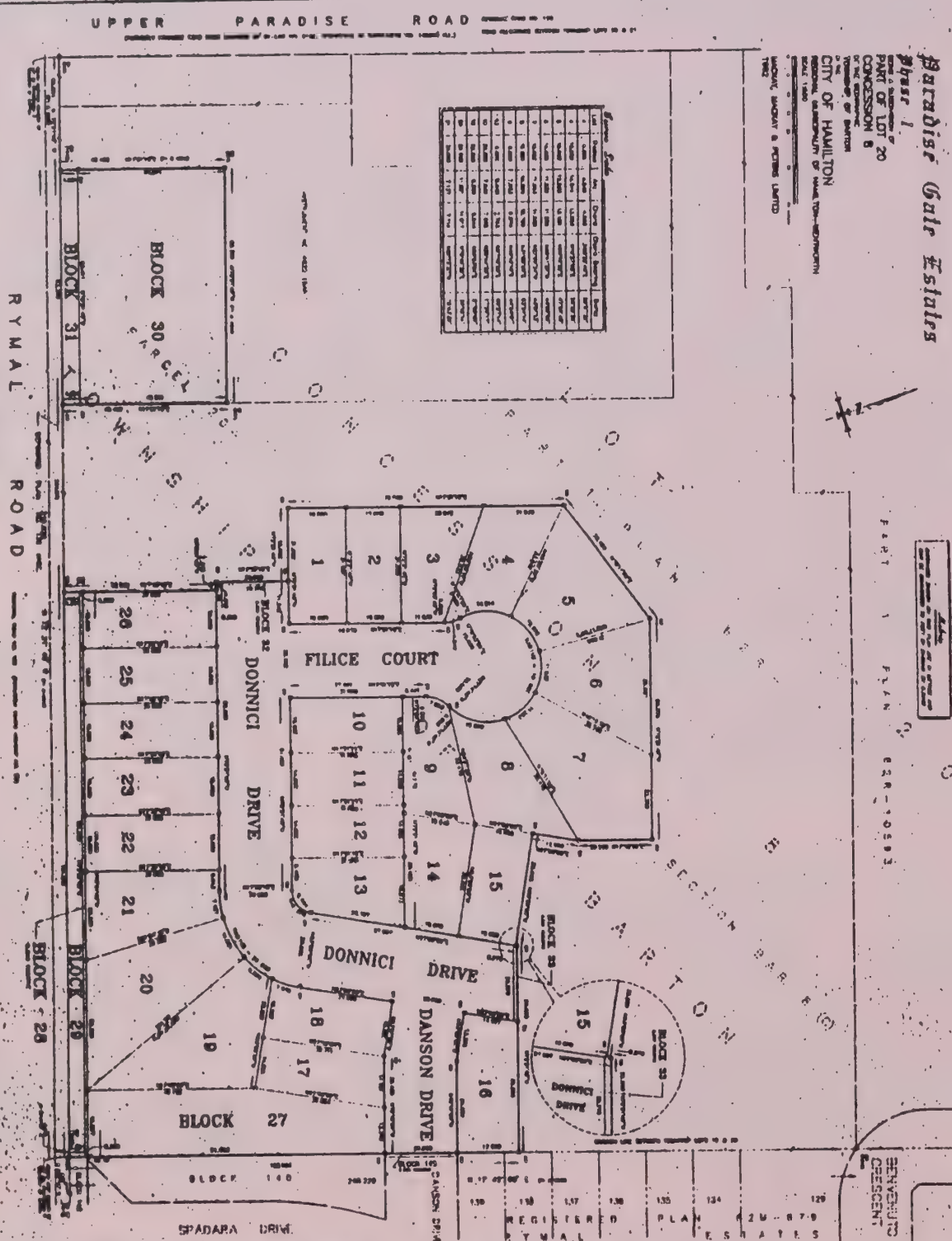
City of Hamilton

RECORDS DEPARTMENT OF REALTY-CONVEYANCE

1962

MAJOR, MAJOR & PETER LIMITED

Lot	Area	Owner	Area	Owner
1	1.00	MAJOR, MAJOR & PETER LIMITED	1	MAJOR, MAJOR & PETER LIMITED
2	1.00	MAJOR, MAJOR & PETER LIMITED	2	MAJOR, MAJOR & PETER LIMITED
3	1.00	MAJOR, MAJOR & PETER LIMITED	3	MAJOR, MAJOR & PETER LIMITED
4	1.00	MAJOR, MAJOR & PETER LIMITED	4	MAJOR, MAJOR & PETER LIMITED
5	1.00	MAJOR, MAJOR & PETER LIMITED	5	MAJOR, MAJOR & PETER LIMITED
6	1.00	MAJOR, MAJOR & PETER LIMITED	6	MAJOR, MAJOR & PETER LIMITED
7	1.00	MAJOR, MAJOR & PETER LIMITED	7	MAJOR, MAJOR & PETER LIMITED
8	1.00	MAJOR, MAJOR & PETER LIMITED	8	MAJOR, MAJOR & PETER LIMITED
9	1.00	MAJOR, MAJOR & PETER LIMITED	9	MAJOR, MAJOR & PETER LIMITED
10	1.00	MAJOR, MAJOR & PETER LIMITED	10	MAJOR, MAJOR & PETER LIMITED
11	1.00	MAJOR, MAJOR & PETER LIMITED	11	MAJOR, MAJOR & PETER LIMITED
12	1.00	MAJOR, MAJOR & PETER LIMITED	12	MAJOR, MAJOR & PETER LIMITED
13	1.00	MAJOR, MAJOR & PETER LIMITED	13	MAJOR, MAJOR & PETER LIMITED
14	1.00	MAJOR, MAJOR & PETER LIMITED	14	MAJOR, MAJOR & PETER LIMITED
15	1.00	MAJOR, MAJOR & PETER LIMITED	15	MAJOR, MAJOR & PETER LIMITED
16	1.00	MAJOR, MAJOR & PETER LIMITED	16	MAJOR, MAJOR & PETER LIMITED
17	1.00	MAJOR, MAJOR & PETER LIMITED	17	MAJOR, MAJOR & PETER LIMITED
18	1.00	MAJOR, MAJOR & PETER LIMITED	18	MAJOR, MAJOR & PETER LIMITED
19	1.00	MAJOR, MAJOR & PETER LIMITED	19	MAJOR, MAJOR & PETER LIMITED
20	1.00	MAJOR, MAJOR & PETER LIMITED	20	MAJOR, MAJOR & PETER LIMITED
21	1.00	MAJOR, MAJOR & PETER LIMITED	21	MAJOR, MAJOR & PETER LIMITED
22	1.00	MAJOR, MAJOR & PETER LIMITED	22	MAJOR, MAJOR & PETER LIMITED
23	1.00	MAJOR, MAJOR & PETER LIMITED	23	MAJOR, MAJOR & PETER LIMITED
24	1.00	MAJOR, MAJOR & PETER LIMITED	24	MAJOR, MAJOR & PETER LIMITED
25	1.00	MAJOR, MAJOR & PETER LIMITED	25	MAJOR, MAJOR & PETER LIMITED
26	1.00	MAJOR, MAJOR & PETER LIMITED	26	MAJOR, MAJOR & PETER LIMITED
27	1.00	MAJOR, MAJOR & PETER LIMITED	27	MAJOR, MAJOR & PETER LIMITED
28	1.00	MAJOR, MAJOR & PETER LIMITED	28	MAJOR, MAJOR & PETER LIMITED
29	1.00	MAJOR, MAJOR & PETER LIMITED	29	MAJOR, MAJOR & PETER LIMITED
30	1.00	MAJOR, MAJOR & PETER LIMITED	30	MAJOR, MAJOR & PETER LIMITED
31	1.00	MAJOR, MAJOR & PETER LIMITED	31	MAJOR, MAJOR & PETER LIMITED



PLAN 62M-10593

REGISTERED PLAN 62M-10593

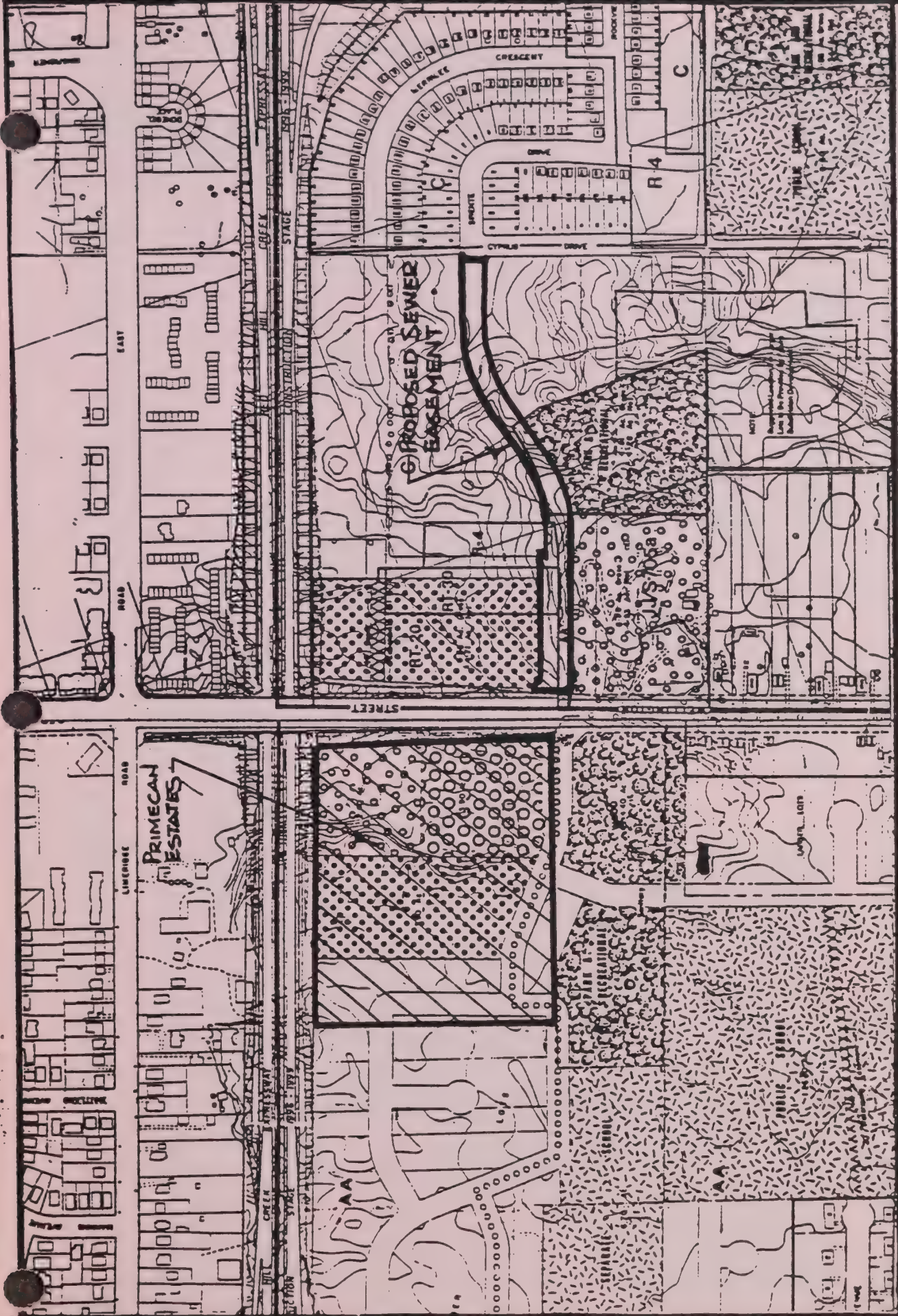
REGISTERED PLAN 62M-10593

PLAN 62M-10593

1. I, the undersigned, being a duly qualified and licensed surveyor, do hereby certify that the above is a true and correct copy of the plan as shown to me by the owner thereof, and that the same is in accordance with the provisions of the Act in that behalf.

1962





KEY BAL

N.T.S.

JEROME AND  
CERAD

APPROVED PLAYS



# PLAN OF American States

BEING A SUBDIVISION OF  
PART OF LOT 13 - CONCESSION 7  
GEOGRAPHIC TOWNSHIP OF BARTON  
MORE OR LESS  
CITY OF HAMILTON  
REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

A. J. CLARK O.L.S.  
1992

BLOCK AREA		
BL	BL	BL
12	10225	10225
12	10225	10225
10	11230	11230

distances shown on this plan are in meters and can be converted to feet by dividing by 0.3048.

## 62737

NAME	AGE	SEX	RELATIONSHIP	DATE OF BIRTH	DATE OF DEATH	PLACE OF BIRTH	PLACE OF DEATH	CAUSE OF DEATH	DATE OF BURIAL	PLACE OF BURIAL
John Doe	45	M	Husband	1910-01-01	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
Jane Doe	42	F	Wife	1912-03-10	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
Robert Doe	15	M	Son	1925-08-05	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
Mary Doe	12	F	Daughter	1928-02-20	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
William Doe	10	M	Son	1930-05-15	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
Elizabeth Doe	8	F	Daughter	1932-09-01	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
James Doe	6	M	Son	1934-11-10	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
Patricia Doe	4	F	Daughter	1936-04-05	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
Charles Doe	2	M	Son	1938-07-20	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY
Barbara Doe	1	F	Daughter	1940-10-01	1955-06-15	New York, NY	New York, NY	Heart Disease	1955-06-20	New York, NY

## CONVERT CATALOG

[illegible]

AMERICAN HOLDINGS, INC.  
*Richard B. Land*  
 101 N. 1st St.  
 101 N. 1st St.

ДЛЯ ПОДПИСАНИЯ

2000-04-08

2000  
2000

A. J. Clarke and Associates Ltd.



LIVERIDGE ROAD EAST

8137, on 4N 629-6191.

56806--663 WT 6 6 JPT 6

0.49 7 PLAM 539-117JF  
0.57 PLAM 539-117JF

1961-1962

CK 12

and 13-1, section 997(c)

Geographic Township Of Barton

BLOCK 14

[illegible]

REC'D 7 JUN 67 579-1777

**Abstract**

Author	Year	Sample Size	Effect Size
Wang et al.	2005	100	0.15
Wang et al.	2006	100	0.15
Wang et al.	2007	100	0.15
Wang et al.	2008	100	0.15
Wang et al.	2009	100	0.15
Wang et al.	2010	100	0.15
Wang et al.	2011	100	0.15
Wang et al.	2012	100	0.15
Wang et al.	2013	100	0.15
Wang et al.	2014	100	0.15
Wang et al.	2015	100	0.15
Wang et al.	2016	100	0.15
Wang et al.	2017	100	0.15
Wang et al.	2018	100	0.15
Wang et al.	2019	100	0.15
Wang et al.	2020	100	0.15
Wang et al.	2021	100	0.15
Wang et al.	2022	100	0.15
Wang et al.	2023	100	0.15
Wang et al.	2024	100	0.15
Wang et al.	2025	100	0.15
Wang et al.	2026	100	0.15
Wang et al.	2027	100	0.15
Wang et al.	2028	100	0.15
Wang et al.	2029	100	0.15
Wang et al.	2030	100	0.15
Wang et al.	2031	100	0.15
Wang et al.	2032	100	0.15
Wang et al.	2033	100	0.15
Wang et al.	2034	100	0.15
Wang et al.	2035	100	0.15
Wang et al.	2036	100	0.15
Wang et al.	2037	100	0.15
Wang et al.	2038	100	0.15
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Wang et al.	2041	100	0.15
Wang et al.	2042	100	0.15
Wang et al.	2043	100	0.15
Wang et al.	2044	100	0.15
Wang et al.	2045	100	0.15
Wang et al.	2046	100	0.15
Wang et al.	2047	100	0.15
Wang et al.	2048	100	0.15
Wang et al.	2049	100	0.15
Wang et al.	2050	100	0.15
Wang et al.	2051	100	0.15
Wang et al.	2052	100	0.15
Wang et al.	2053	100	0.15
Wang et al.	2054	100	0.15
Wang et al.	2055	100	0.15
Wang et al.	2056	100	0.15
Wang et al.	2057	100	0.15
Wang et al.	2058	100	0.15
Wang et al.	2059	100	0.15
Wang et al.	2060	100	0.15
Wang et al.	2061	100	0.15
Wang et al.	2062	100	0.15
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Wang et al.	2064	100	0.15
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Wang et al.	2068	100	0.15
Wang et al.	2069	100	0.15
Wang et al.	2070	100	0.15
Wang et al.	2071	100	0.15
Wang et al.	2072	100	0.15
Wang et al.	2073	100	0.15
Wang et al.	2074	100	0.15
Wang et al.	2075	100	0.15
Wang et al.	2076	100	0.15
Wang et al.	2077	100	0.15
Wang et al.	2078	100	0.15
Wang et al.	2079	100	0.15
Wang et al.	2080	100	0.15
Wang et al.	2081	100	0.15
Wang et al.	2082	100	0.15
Wang et al.	2083	100	0.15
Wang et al.	2084	100	0.15
Wang et al.	2085	100	0.15
Wang et al.	2086	100	0.15
Wang et al.	2087	100	0.15
Wang et al.	2088	100	0.15
Wang et al.	2089	100	0.15
Wang et al.	2090	100	0.15
Wang et al.	2091	100	0.15
Wang et al.	2092	100	0.15

Lot 12

TOWERCREST  
DRIVE

~~BLOCK 27~~ - BLOCK 28

4-10-54

51-44  
87  
Ad

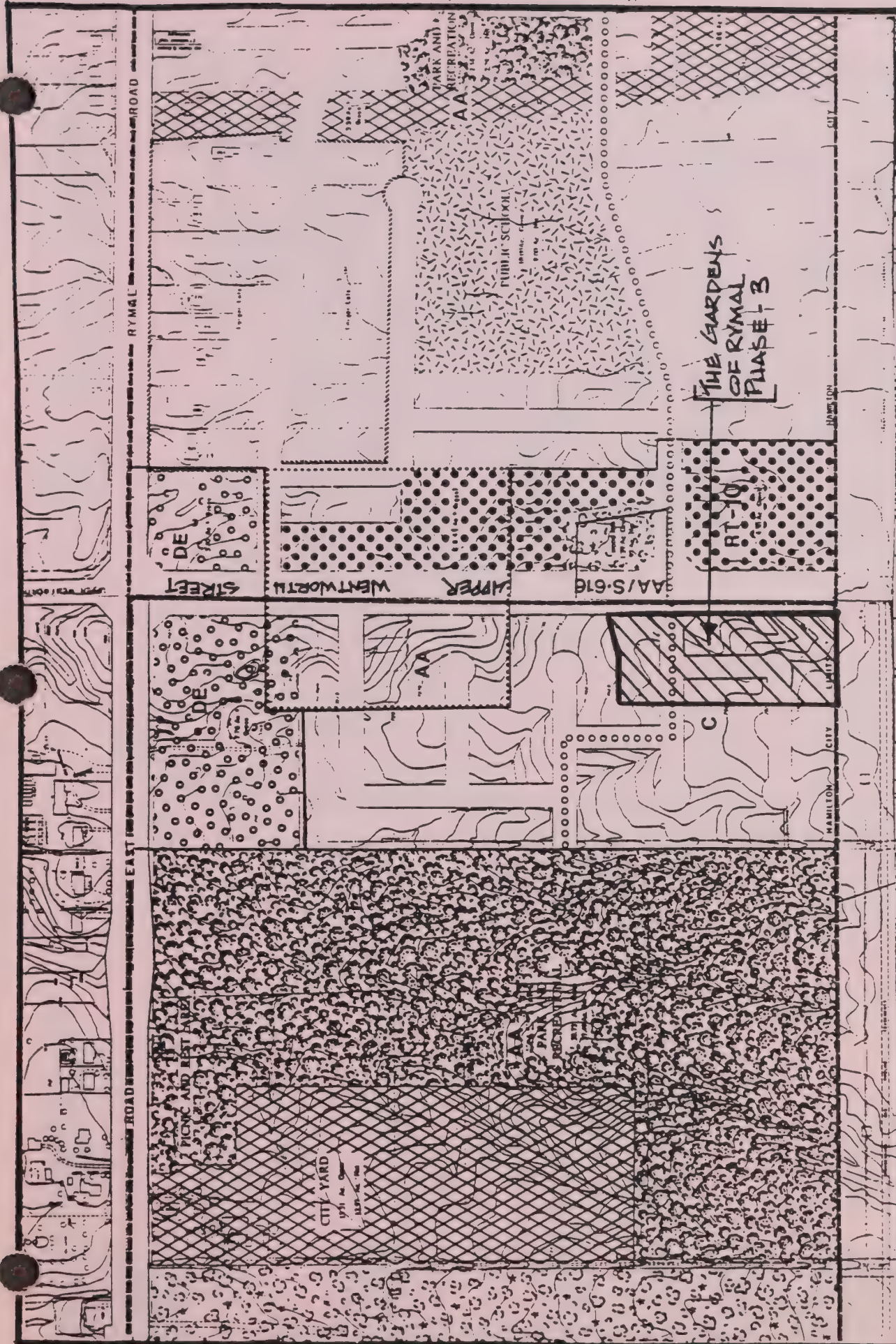
9

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**Journal of Management Education** 36(7) 809-824  
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<http://www.sagepub.com/journalsPermissions.nav>

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# KEY PLAN

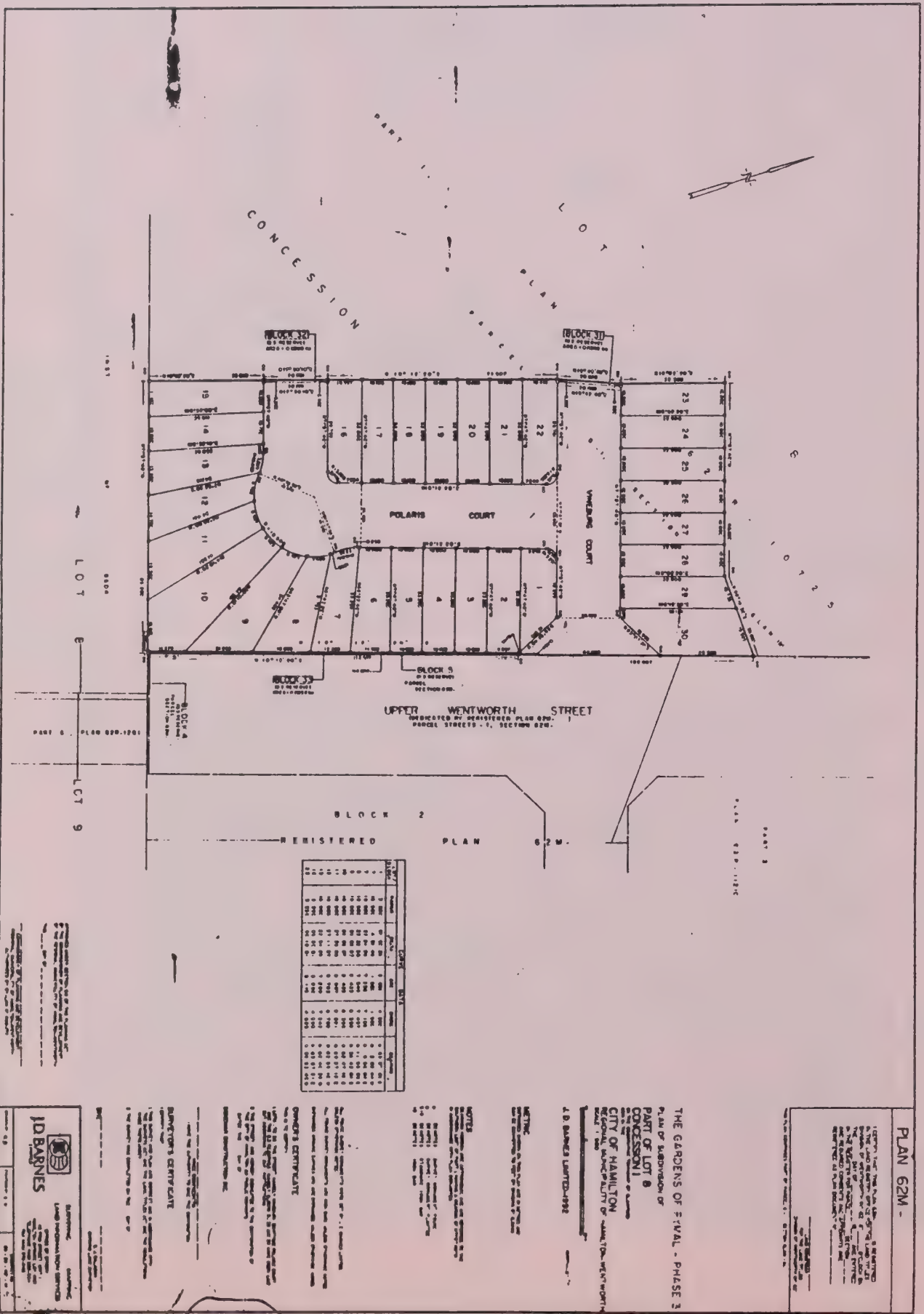
N.T.S.



CHAPPEL EAST & WEST

APPROVED PLANS

SCHEDULE A



PLAN 62M -

1. CERTAIN THAT THE PLAN IS A SUBDIVISION OF THE LAND SHOWN THEREON INTO LOTS, ALLOTTMENTS, OR PARCELS, AND THAT THE SAME ARE TO BE USED FOR THE PURPOSES SPECIFIED IN THE ZONING BY-LAW OF THE CITY OF HAMILTON.

2. THAT THE LAND SHOWN THEREON IS NOT A PUBLIC HIGHWAY, AND THAT THE SAME IS NOT A PUBLIC HIGHWAY, AND THAT THE SAME IS NOT A PUBLIC HIGHWAY.

THE GARDENS OF FIVIAL - PHASE 3  
 PLAN OF SUBDIVISION OF  
 PART OF LOT 8  
 CONCESSION 1  
 CITY OF HAMILTON  
 REGIONAL AUTHORITY OF HAMILTON, WEST WENTWORTH STREET

L.B. BARNES LIMITED-1992

NOTICE  
 I, the undersigned, being a duly qualified and authorized person, do hereby certify that the above is a true and correct copy of the original plan as filed in the office of the Registrar of Titles, and that the same is in accordance with the provisions of the Land Transfer Act, 1962, and the Regulations thereunder.

OWNER'S CERTIFICATE  
 I, the undersigned, being the owner of the land shown on the above plan, do hereby certify that the same is a true and correct copy of the original plan as filed in the office of the Registrar of Titles, and that the same is in accordance with the provisions of the Land Transfer Act, 1962, and the Regulations thereunder.

REGISTERED CERTIFICATE  
 I, the undersigned, being a duly qualified and authorized person, do hereby certify that the above is a true and correct copy of the original plan as filed in the office of the Registrar of Titles, and that the same is in accordance with the provisions of the Land Transfer Act, 1962, and the Regulations thereunder.

L.B. BARNES  
 L.B. BARNES LIMITED-1992

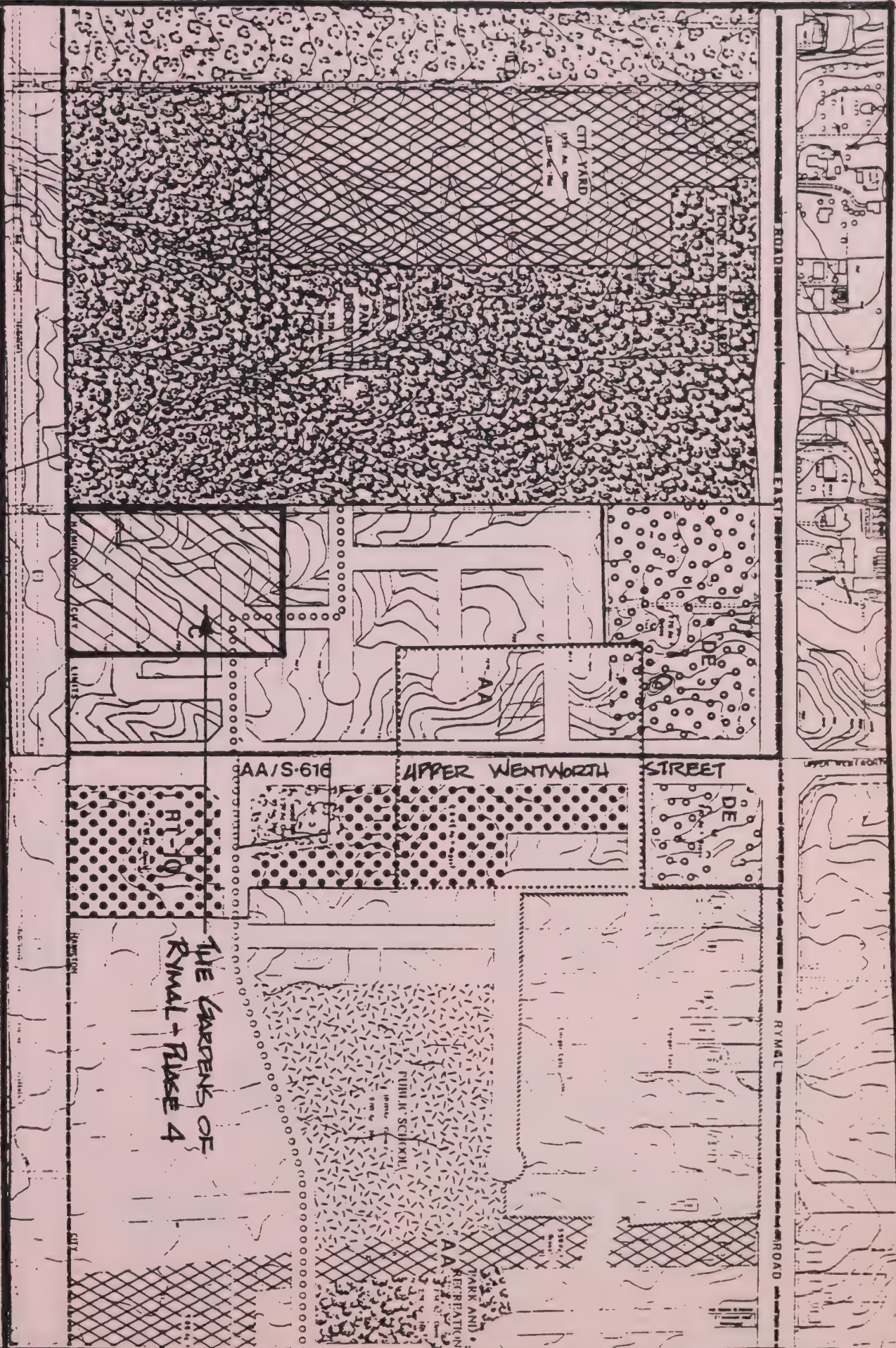


Channel East to West

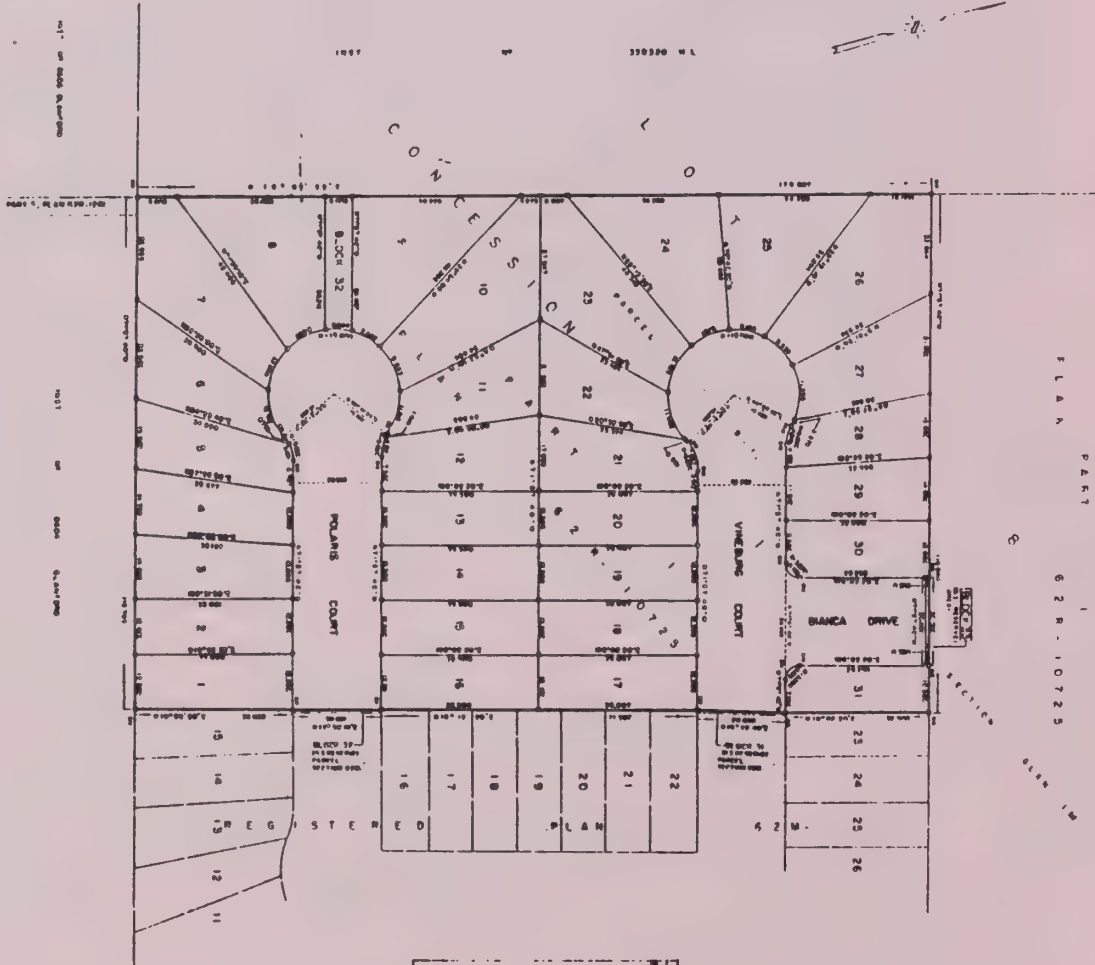
KEY PLAN

N.T.S.

APPROVED PLANS



## SCHEDULE A

[illegible]

PLAN 62M -

[illegible]

THE UNIVERSITY OF CHICAGO  
CHICAGO, ILL. 60637  
U.S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250

THE GARDENS OF RYMAL - PHASE 6  
PLAN OF SUBDIVISION OF  
PART OF LOT 8  
CONVEYANCE 1

CITY OF HAMILTON  
REG. GENERAL, BUREAU OF ALITY OF HAMILTON, ON. WEST WORTH  
RECEIVED: 1980

D. D. BARNES LIMITED-1972

五、關於「三民主義」

NOTES

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

[illegible]

**CONDUCTS CIVIL SERVICE**

**Abstract**

**UNIVERSITY OF CALIFORNIA**

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 二、  
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 六、  
 七、  
 八、  
 九、  
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—



**10 BARNES**

INTERNET      INTERNET  
LAW INFORMATION SERVICES

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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CITY OF HAMILTON

- RECOMMENDATION -

Da)  
RECEIVED

SEP 15 1992

CITY CLERKS

DATE: September 11, 1992

REPORT TO: Tina Agnello, Secretary  
Planning and Development Committee


FROM: L.C. King, P.Eng.  
Building Commissioner

SUBJECT: REQUEST FOR 48-HOUR EXPRESS SERVICE FOR ISSUANCE  
OF ZONING VERIFICATION/PROPERTY REPORTS  
(92.2.4.2.1.A, BI-92-05)

**RECOMMENDATION:**

That the Building Commissioner be authorized and directed to collect the following new administrative charge:

The fee for requesting 48-hour express service to obtain a Zoning Verification/Property Report be \$120.



L.C. King, P.Eng.

LCK/WW/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

- a) No additional staff is required.
- b) The \$40 additional fee will be used to off-set the cost of staff overtime to perform the express service and will also add revenue to this Department.

**BACKGROUND:**

At the present time, the administrative charge for the Zoning Verification/Property Report is \$80. The time frame required for the issuance of the above report is eight (8) days from the date of receipt. However, during peak periods, it may require more than eight (8) days to process. In the past, the Department has received a large number of requests from lawyers and real estate agents to expedite the Zoning Verification/Property Report process within a couple of days for the following reasons:

1. The real estate transaction needs to be completed within a short time, but the uses are required to be confirmed, and file search is needed from this Department.
2. In the majority of non-residential real estate transactions, particularly commercial, before waiving of the conditions stipulated in the offer, a Zoning Verification/Property Report is required to protect the interests of the purchaser(s).
3. In most cases, before a bank or lending institution approves a new mortgage or a refinancing, a Zoning Verification/Property Report is required to determine if the proposed use of the property is permitted under Zoning By-Law #6593 and the property is free of municipal work orders.

At the present time, our service is based on a first come, first served basis. Therefore, it is difficult to accommodate those people who need to obtain a Zoning Verification/Property Report within forty-eight (48) hours, or sooner than the normal turn-around time.

The idea of "express service" has been widely used in private industries, as well as government and crown corporations. The most common one known in use is "priority mail service" versus "regular mail service" in Canada Post offices. If you want the priority mail service, you pay a premium for it.

For the information of the Committee, the Town of Oakville implemented an "express 48-hour service" for Zoning Verifications/Property Reports in April of this year, and so far the response is very positive. The numbers requested for "express service" are increasing dramatically during this five (5) month period. At the present time, the City of Burlington is considering a similar service.

In conclusion, we believe that by providing a 48-hour turn-around express service for Zoning Verifications and Property Reports, it will enhance our customer service. The additional \$40 charge will enable the Department to utilize overtime, if necessary, to maintain the 48-hour express service and the eight (8) day service for normal reports.

Other customers, who do not want the "express service", will continue to receive the same level of service and their requests for Zoning Verification/Property Reports will be processed in the same manner as we are providing at the present time.

The following table compares Hamilton's time for report issuance to the neighbouring municipalities of Burlington and Oakville.

September 11, 1992

During Normal Period

Hamilton	8 working days
Burlington	10 - 15 working days
Oakville	about 15 working days

For the information of the Committee, a letter was received by this Department from Mr. Kenneth W. Deckert, a member of the Real Estate Subcommittee of the Hamilton Law Association, supporting our proposed 48-hour express service respecting Zoning Verifications/Property Reports, providing the current eight (8) day service for regular requests will be maintained.





D61

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

AUG 27 1992

CITY CLERKS

**DATE:** 1992 August 21

**REPORT TO:** Ms. Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. L. King, P.Eng.  
Building Commissioner

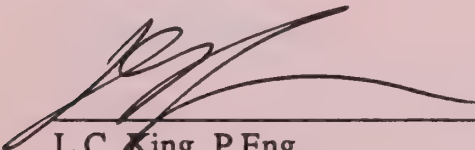
**SUBJECT:** Ontario Home Renewal Programme  
(O.H.R.P.)(92.2.4.2.1.A)

**RECOMMENDATION:**

That the Building Department, Loans Division, be authorized to process the following grant/loan(s) for:

- |                                                 |                                                    |
|-------------------------------------------------|----------------------------------------------------|
| (a) Victor & Gladys Woodfine<br>4 Hilton Street | (b) Frances & Walter Somers<br>529 Roxborough Ave. |
|-------------------------------------------------|----------------------------------------------------|

in the amounts not to exceed \$7,500. The actual amount of grant or loan to be determined by inspection of the property under the Property Standards By-law 74-74 and pursuant to Regulation 506 (R.R.O. 1980) under the Housing Development Act for the Ontario Home Renewal Programme.

  
\_\_\_\_\_  
L.C. King, P.Eng.  
Building Commissioner  
LCK/JHR/dc

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:** N/A

**BACKGROUND:**

The applications listed above are currently being processed for a grant and/or loan to an amendment to The Housing Development Act, Regulation 506(R.R.O.1980).

**Tina Agnello, Secretary**  
**Ontario Home Renewal Programme**  
**Continued....**

**Page 2**

For the information of the members of the Committee, the total number of applications to date under the Ontario Home Renewal Programme is three thousand, eight hundred and sixty one, (3,861).

c.c. R. Camani, Treasury Department



**CITY OF HAMILTON**  
**- RECOMMENDATION -**

Deli

**DATE:** September 14, 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** L.C. King, P.Eng.  
Building Commissioner

**SUBJECT:** DEMOLITION OF 330 CHARLTON AVENUE WEST  
Tag Number 87572 (92.1.1.A)

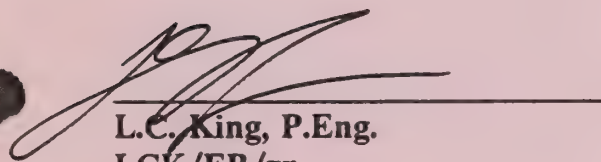
RECEIVED

SEP 15 1992

CITY CLERKS

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 330 CHARLTON AVENUE WEST.

  
\_\_\_\_\_  
L.C. King, P.Eng.  
LCK/EB/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

**PRESENT ZONING:** "E-2" (Multiple Dwelling)

**PRESENT USE:** Parish Hall (St. John the Evangelist)

**PROPOSED USE:** Apartment Building

**BRIEF DESCRIPTION:** 1 storey concrete block structure in good condition.

The building to be demolished is to make room for a proposed 4-storey 29 unit apartment building in conjunction with the adjoining church. A By-Law (92-141) change has been approved to an "E-2" zone with a Development Agreement (DA-92-24). The building is on the C.I.H.B. list which the Planning Department is aware of. Lot size 108.5' x 129'

The owner of the property as per the demolition permit application is:

Church of St. John's the Evangelist  
320 Charlton Avenue West, Hamilton, Ontario



**CITY OF HAMILTON**

**- RECOMMENDATION -**

*Devi*  
**RECEIVED**

**DATE:** September 14, 1992

SEP 15 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

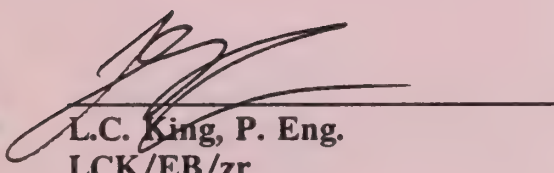
CITY CLERKS

**FROM:** L.C. King, P.Eng.  
Building Commissioner

**SUBJECT:** DEMOLITION OF 322 CHARLTON AVENUE WEST  
- Tag Number 87573 (92.1.1.A)

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 322 CHARLTON AVENUE WEST.

  
L.C. King, P. Eng.  
LCK/EB/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

**PRESENT ZONING:** "E-2" (Multiple Dwellings)

**PRESENT USE:** Single Family Dwelling

**PROPOSED USE:** Apartment Building

**BRIEF DESCRIPTION:** 2-1/2 storey wood frame dwelling in good condition.

The building is to be demolished for a proposed 4-storey 29 unit apartment building in conjunction with the adjoining church. A By-Law (92-141) change has been approved to an "E-2" zone with a Development Agreement (DA-92-24) Lot Size 23' x 129'

The owner of the property as per the demolition permit application is:

John Fair  
Leslie Brown  
Thelma Maskell





**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 15 1992

CITY CLERKS

**DATE:** September 14, 1992

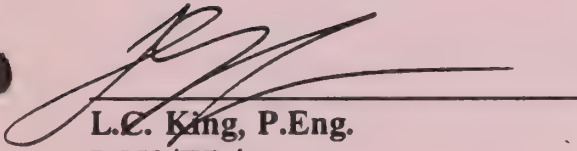
**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** L.C. King, P.Eng.  
Building Commissioner

**SUBJECT:** DEMOLITION OF 590 STONE CHURCH ROAD EAST  
- Tag Number 87090 (92.1.1.A)

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 590 STONE CHURCH ROAD EAST.



L.C. King, P.Eng.  
LCK/EB/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

**PRESENT ZONING:** "C" (Urban Protected Residential)

**PRESENT USE:** Single Family Dwelling

**PROPOSED USE:** Single Family Dwelling

**BRIEF DESCRIPTION:** One storey brick veneer and frame bungalow in fair condition.

The house to be demolished for a single family dwelling. Lot size 75' x 106'

The owner of the property as per the demolition permit application is:

Mr. Robert Santosuosso  
272 Delancey Boulevard  
Hamilton, Ontario





**CITY OF HAMILTON**

**- RECOMMENDATION -**

**RECEIVED**

**DATE:** September 14, 1992

SEP 15 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

CITY CLERKS

**FROM:** L.C. King, P. Eng.  
Building Commissioner

**SUBJECT:** DEMOLITION OF 493 BURLINGTON STREET EAST  
(92.1.1.A)

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 493 BURLINGTON STREET EAST.

  
\_\_\_\_\_  
L.C. King, P.Eng.  
LCK/EB/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

**PRESENT ZONING:** "K" (Heavy Industrial)

**PRESENT USE:** Single Family Dwelling

**PROPOSED USE:** Perimeter Road Project

**BRIEF DESCRIPTION:** 1-½ storey wood frame residence in poor condition.

House to be demolished for the perimeter road. Lot size 24' x 88'

The owner of the property as per the demolition permit application is:

Regional Municipality of Hamilton-Wentworth



**CITY OF HAMILTON**  
**- RECOMMENDATION -**

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SEP 15 1992

CITY CLERKS

**DATE:** September 14, 1992

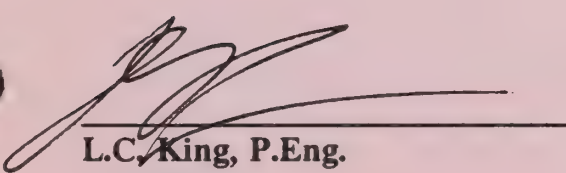
**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** L.C. King, P.Eng.  
Building Commissioner

**SUBJECT:** DEMOLITION OF 1134 UPPER WENTWORTH  
STREET (92.1.1.A)

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 1134 UPPER WENTWORTH STREET.



L.C. King, P.Eng.  
LCK/EB/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

**PRESENT ZONING:** "AA" (Agriculture)

**PRESENT USE:** Single Family Dwelling

**PROPOSED USE:** Mountain Freeway

**BRIEF DESCRIPTION:** Two storey wood frame dwelling in good condition.

The house to be demolished for the Mountain Freeway. Lot size 70' x 694.87'

The owner of the property as per the demolition permit application is:

Regional Municipality of Hamilton-Wentworth





**CITY OF HAMILTON**  
**- RECOMMENDATION -**

Devi)  
**RECEIVED**

SEP 15 1992

CITY CLERKS

**DATE:** September 14, 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** L.C. King, P.Eng.  
Building Commissioner

**SUBJECT:** DEMOLITION OF 1086 UPPER JAMES STREET  
(92.1.1.A)

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 1086 UPPER JAMES STREET.



\_\_\_\_\_  
L.C. King, P.Eng.  
LCK/EB/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

**PRESENT ZONING:** "C" (Urban Protected Residential)

**PRESENT USE:** Single Family Dwelling

**PROPOSED USE:** Mountain Freeway

**BRIEF DESCRIPTION:** 1-½ storey brick building in fair shape.

House to be demolished for the Mountain Freeway. Lot size 54.39' x 115.18'

The owner of the property as per the demolition permit application is:

Regional Municipality of Hamilton-Wentworth



CITY OF HAMILTON

**- RECOMMENDATION -**

De>vii)  
RECEIVED

**DATE:** September 14, 1992

SEP 15 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

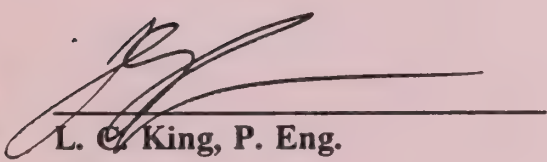
CITY CLERKS

**FROM:** L. C. King, P.Eng.  
Building Commissioner

**SUBJECT:** DEMOLITION OF 1170 GARTH STREET (92.1.1.A)

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 1170 GARTH STREET.

  
L. C. King, P. Eng.  
LCK/EB/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

**PRESENT ZONING:** "AA" (Agriculture)

**PRESENT USE:** Single Family Dwelling

**PROPOSED USE:** Mountain Freeway

**BRIEF DESCRIPTION:** One storey wood frame and aluminum siding house in good condition.

The house to be demolished for the Mountain Freeway. Lot size 75' x 290'

The owner of the property as per the demolition permit application is:

Regional Municipality of Hamilton-Wentworth





**CITY OF HAMILTON**  
**- RECOMMENDATION -**

De) viii)

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SEP 15 1992

CITY CLERKS

**DATE:** September 14, 1992

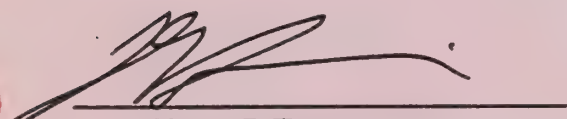
**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** L.C. King, P.Eng.  
Building Commissioner

**SUBJECT:** Demolition of 261-263 WELLINGTON ST. NORTH  
Tag Number 87358 (92.1.1.A)

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 261 - 263 WELLINGTON STREET NORTH.

  
\_\_\_\_\_  
L.C. King, P.Eng.  
LCK/EB/zr

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

**PRESENT ZONING:** "H" and "D" (Community Shopping & Urban Protected Residential)

**PRESENT USE:** Single Family Dwelling

**PROPOSED USE:** Parking Area

**BRIEF DESCRIPTION:** 1-½ storey wood frame which are boarded up and vacant.

The property known as 261 Wellington Street North is presently zoned "D" and is being changed to an "H" zone to coincide with the "H" zoning presently on the lands known as 263 Wellington Street North under Zoning Application ZA-91-68 and Development Agreement DA-92-32. Lot sizes 23' and 25' x 115'

The owner of the property as per the demolition permit application is:

Tim Donut Limited, 874 Sinclair Road  
Oakville, Ontario



E.

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**DATE:** 1992 September 15  
(P5-4-3-13)

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Underground Parking Study  
- Study Proposal

**RECEIVED**

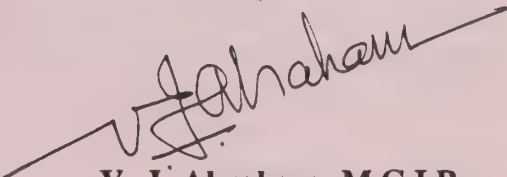
SEP 17 1992

**CITY CLERKS**

**RECOMMENDATION:**

- A) That the Residential Underground Parking Study, as per the attached Study Proposal, be undertaken; and,
- B) That the Planning and Development Department be authorized to hire Lynda Morris, Urban Safety Consultant, to undertake the study, at a cost not to exceed \$15,000.

**J. D. Thoms, M.C.I.P.**  
**Commissioner**  
**Planning and Development Department**

  
**V. J. Abraham, M.C.I.P.**  
**Director of Local Planning**

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Funds not exceeding \$15,000 to be taken from surplus City grant funds currently available.

**BACKGROUND:**

**Origin**

This study proposal originated with a request by Alderman Don Drury, Chairman of the Planning and Development Committee, following the Committee meeting of May 20, 1992. It arose from concerns expressed about underground parking garages such as those being considered for new multiple residential developments in the City. A request for staff to investigate a possible study was



brought forward to the Planning and Development Committee meeting of June 24, 1992, at which time staff advised that they would prepare a report on the matter.

Previously, at the Planning and Development Committee meeting of March 25, 1992, a report from the Urban Design Committee concerning a proposed Urban Safety Study was endorsed, and staff were directed to investigate funding sources. This study was intended to develop recommendations for personal safety for women, through a pilot project on a specific site, such as a public area in the downtown. The issue of safety in underground parking garages was subsequently raised. The proposed study on parking garages may address some of the issues associated with the urban safety study which was previously requested.

Underground parking facilities are considered to be one of the most dangerous urban areas in terms of personal safety. The perception of the public in general, and women in particular, is one of unease concerning these facilities. Some potential users such as women may avoid these garages altogether, which further increases their vacancy and potential for crime.

The Building Code and Zoning By-Law do not at present include provisions for consideration of personal safety in these facilities. This appears to be an emerging field of study, on which there is not readily available research information or recommendations for improved safety. It is therefore proposed that a study be undertaken to develop specific recommendations concerning the safety of such parking facilities.

### **Purpose:**

The major purpose of the proposed study is to prepare guidelines and policies to improve personal safety from assault for users of residential underground parking garages and related access areas. Traffic safety within these garages is also to be considered, as a secondary matter.

Objectives of the study include the development of recommendations for these facilities regarding:

- Safety from assault for all users, and especially women and children;
- Safety of vehicles from vandalism and damage; and,
- Safety between and among vehicles and pedestrians.

The study is primarily restricted to developing recommendations for new residential underground parking garages, in order that these recommendations might be appropriately specific and effective. However, the findings would likely also be applicable, in part, to the design of existing residential garages and/or commercial parking garages.

### **Methodology:**

The preliminary methodology for the study is attached. The major components include:

- collection of relevant information from various sources, including other municipalities, police and sexual assault centre;
- site visits to existing residential and commercial parking garages, as well as assault locations;

- creation of a stakeholder group to identify concerns, consisting of representatives of such groups as tenants, apartment owners, municipal staff, police, etc.;
- review and analysis of information;
- preparation of recommended policies; and,
- implementation through design guidelines and changes to municipal approval practices.

A preliminary budget for the study is also attached, which gives an indication of the allocation of the total budget, and the estimated disbursements. There may be an opportunity for minor cost savings for some of the items indicated, if Planning Department support services are utilized.

#### **COMMENTS:**

The proposed study of underground parking garages would provide recommendations intended to improve safety and security for women, children and other people in underground parking facilities.

As requested by the Planning and Development Committee at their meeting of June 24, 1992, staff have reviewed the potential for a study on this matter. Staff time is not available for this analysis within the existing work programme, nor is it anticipated to be available next year, due to other committed projects and staffing constraints. Expertise in the field of urban safety and design as it relates to personal safety for women is required for this analysis. It is therefore proposed that Lynda Morris, of Lynda Morris Management Services Ltd., Urban Safety Consultants, be hired to undertake the study. She appears to have considerable experience in the field of urban safety, including involvement with several studies and with a number of advisory committees, of which the following provide some examples:

- Red Hill Creek Expressway - King Street Pedestrian Underpass - retained by the Region in April, 1992 to organize staff/public consultation regarding safety improvements, and to carry out a safety audit; involved in development of recommended measures;
- Status of Women Sub-Committee - provided assistance with design of the Safety Audit undertaken in spring of 1992;
- Various Planning Department advisory committees - provided comments regarding urban safety issues and safe design for facilities such as MacNab Street Tunnel and downtown alleys.

A summary of her relevant experience is attached.

The anticipated outcome of the study will include recommended policies for the improved design of new residential underground parking facilities. It will then be possible to prepare design guidelines and review site plan applications in a manner which better ensures personal safety, as well as improved safety for vehicles and pedestrians.

#### **CONCLUSIONS:**

Based on the foregoing, it is recommended that the proposed study of residential underground parking garages, and in particular their design from the standpoint of personal and vehicular safety, be undertaken by Lynda Morris Management Services, Ltd., as per the attached preliminary methodology.

V.G.:ns

UNDPARK.REP



## **RESIDENTIAL UNDERGROUND PARKING STUDY**

### **PRELIMINARY METHODOLOGY**

#### **1) DETAILED STUDY DESIGN**

- a) Refine Overall Study Design
- b) Design Safety Audits
- c) Identify Stakeholder Representatives

#### **2) BACKGROUND INFORMATION**

- a) Contact Other Municipalities
- b) Review Relevant Literature
- c) Review Existing Policies and By-Laws
- d) Review Relevant Articles in Press Archives
- e) Contact Police and Sexual Assault Centre

#### **3) STAKEHOLDER GROUP INPUT**

- a) Establish Stakeholder Group
- b) Provide Background Information for Meetings
- c) Hold Meetings / Brainstorming Sessions with Stakeholders  
(approximately three to five meetings)

#### **4) SITE VISITS AND SAFETY AUDITS**

- a) Conduct Safety Audits of Residential Parking Garages  
(approximately four to six)
- b) Visit Parking Authority Garages
- c) Visit Assault Locations with Police

#### **5) ANALYSIS AND REVIEW**

- a) Document and Review Findings
- b) Formulation of Draft Policies
- c) Review and Revision with Planning Dept. Staff

#### **6) PUBLIC MEETING AND FINAL REPORT**

- a) Seek Authorization for Public Meeting
- b) Public Meeting Presentation; Submission Review
- c) Final Revisions to Policies
- d) Report to Planning and Development Committee  
For Consideration of Policies/Guidelines
- e) Implementation of Report - Site Plan Stage

## Budget

Estimated Time Required:	220 hours @ \$55	\$12,375
Estimated Disbursements:		2, 511
Fee and Disbursements:		\$ 14,886
Recommended Funding		\$ 15,000

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### Disbursements:

Photocopying	245 +36 +100	380
Transportation and parking for 35 audit participants:		150
Flashlights		60
Resource Materials		350
Public Meeting		
Refreshments-tea/coffee/juice		60
Babysitter		50
Sign Language Interpreters		150
Long Distance Calls		200
Parking		75
Bus Fare to Toronto (for research purposes)		75
Car Allowance @ )0.35/km		200
Postage		136
Film and Processing (10 rolls)		300
One coil bound copy final report		100
Voice Mail box ( first three months)		135
Post Office Box		40
Misc.		50



L Y N D A   M O R R I S   B.A. P.H.Ec.  
95 Amelia St.  
Hamilton Ontario  
L8P 2V3

GRADUATE            University of Toronto B.A. (Household Economics)

RECENT PRESENTATIONS ON SAFETY TO THE CITY AND REGION

-Planning and Development Committee (City) Recommendation:  
Passed: Amendment to the Hamilton Official Plan -  
Subsection C.7

Residential Environment and Housing Policy:  
add clause: (xiii) support residential and neighbourhood  
development that respects safety concerns. April 8, 1992

-Transportation Services Committee (Region) re: pedestrian  
access to Red Hill Bowl March 30, 1992

-Planning and Development Committee (City) re: urban safety  
March 25, 1992

-P.R.I.D.E. H.Int. C.A.C. (Programme for Renewal,  
Improvement, Development and Economic Revitalization,  
Housing Intensification Citizen's Advisory Committee) re:  
urban safety Feb. 27, 1992

-Durand Neighbourhood Plan Implementation Committee re:  
McNab Street Underpass March 2, 1992

-C.A.P.I.C. (Central Area Planning and Implementation  
Committee re: arcades on north side of King Street  
Feb. 14, 1992

-Citizens for Citizens (a Ward 3 citizens group) Re: urban  
safety January 23, 1992

-Urban Design Committee re: urban safety project October 28,  
1991, November 22, 1991

-Regional Task Force on Sustainable Development, re: urban  
safety for women June 15, 1991

WRITTEN RECOMMENDATIONS FOR URBAN SAFETY TO:

-Predesign and Special Projects Division, Roads Department,  
re: Magnolia/Guildwood Drive Pedestrian/Bicycle Crossing  
March 4, 1992

-Durand Neighbourhood Plan Implementation Committee  
re: McNab Street Underpass Feb 27, 1992  
Feb. 27, 1992

A more complete resume is available upon request.

Lynda Morris, B.A. (Household Economics) P.H.Ec. R.P.Dt.

To qualify for the designation P.H.Ec. (Professional Home Economist), individuals must have completed a comprehensive, integrated study of the social, psychological and physical needs of individuals and families and the means required to satisfy them.

The Ontario Home Economics Association (of which an individual must be a member to use the designation, P.H.Ec.) has as two of its' objectives:

1. To promote the well being of the individual and home and community life in Ontario.
2. To respond to social issues affecting the well being of the individual and home and community life and to follow through with recommendations to the appropriate agencies and levels of government.

#### URBAN SAFETY

Overview of recent experiences re: urban safety:

1. Study and analysis were done on issues of urban safety. Key issues were incorporated into presentations on Urban Safety to the City and Region (see a previous page).
2. As a direct result of my recommendation at a Public meeting of the Planning and Development Committee (City of Hamilton) on April 8, 1992, it was passed that the following additional clause will be added to the Residential and Housing Policy of the Official Plan.

#### Recommendation #7

*(xiii) support residential and neighbourhood development that respects safety concerns*

3. At the March 25, 1992 meeting of the Planning and Development Committee (City of Hamilton), the following was passed and subsequently approved by Council, "That the Urban Safety Study prepared by L. Morris to develop Urban Safety Design standards be endorsed...."
4. In June, 1991, I chaired a committee (of three) that developed and administered a survey to the shopping malls in Hamilton-Wentworth. The goal was to encourage malls to provide or increase safety and security measures within the malls and in the parking lots.

5. In November, 1991, I developed the submission for the Hamilton Status of Women Sub-Committee for the Strategic Plan for the City of Hamilton addressing personal safety in apartment buildings, underground garages, parking lots, recreation centres and parks.
6. In November, 1991 I organized and coordinated public relations for the public meeting held November 1991 on the Hamilton Safety Audit (Making the City Safer for Women)
7. In 1991, I was interviewed about safety audits by  
Robyn Foley -K103, radio, Fall, 1991  
Laurie Miladin, Hamilton Mountain News, December 11, 1991
8. In June, 1990, I developed recommendations to Culture and Recreation Department (City of Hamilton) on lighting in parking lots, accessible doors to buildings, change room facilities and day care facilities to meet the safety and comfort needs of parents, children and seniors.
9. I plan to attend educational session on neo-traditional neighbourhood design by Andres Duany, April 22, 1992.
10. In October, 1984, I attended Bay Area Conference on Regional Development.

#### REFERENCE

on presentations on urban safety for women to:  
Urban Design Committee (Hamilton City Hall) 1991  
Central Area Planning and Implementation Committee 1992  
contact Vladimir Matus, Manager, Urban Design, Planning  
Department, Local Planning Division, Regional Municipality  
of Hamilton-Wentworth 546-4455

A more detailed resume outlining a range of other experiences and outlining courses and workshops attended in management and communications areas is available upon request



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**D R A F T**  
**CITY OF HAMILTON**  
**- INFORMATION -**

**RECEIVED**

AUG 17 1992

CITY CLERKS

**DATE:** 1992 August 13

**REPORT TO:** Ms. T. Agnello, Secretary  
Planning and Development Committee

**FROM:** P. Noé Johnson  
City Solicitor

**SUBJECT:** The Rent Control Act, 1992

**BACKGROUND:**

The Rent Control Act, 1992 (formerly Bill 121) has been recently enacted and was proclaimed in force as of August 10th, 1992.

**DISCUSSION:**

This new Act has implications for cities which provide inspections as housing standards/safety law enforcers (e.g. the Property Standards By-Law, 74-74, the Waste By-Law, 84-35, The Building Code Act, the Plumbing Code under the Ontario Water Resources Act (all enforced by the Building Department); the Fire Marshal's Act and Fire Code (enforced by the Fire Department) and By-Law 4798, on health, the Health Protection and Promotion Act, and parts of the Environmental Protection Act (enforced by the Region's Department of Health Services).

The new Act contains broad definitions of such terms as "landlord", "rent", "tenant", etc., and is 84 pages in length, in both official languages. With few specified exceptions, almost anyone occupying permanent living accommodation who is not an owner or related to the owner is a "tenant".

The Act sets up a scheme or system whereby a tenant may apply to the provincial Chief Rent Officer for a reduction of the rent on grounds, including inadequate maintenance of a rented premises.



This housing maintenance standards enforcement system is detailed in sections 34-42 of the Act. The Director of Rent Control is to receive from the existing Residential Rental Standards Board all outstanding work orders and, from municipalities, all their existing (and later) work orders which have not been appealed and according to which the work ordered has not been complied with. The latest time for filing these is "as soon as practicable and no later than the last day of the calendar month following the month in which the period for compliance with the order has expired". As an example, if a municipal work order's specified time to comply expired on, say, July 16th, 1992 without appeal or compliance, then the order copy would have to be filed with the Director by the municipality's inspecting department by no later than August 31st, 1992. Similarly, decisions on appeals of orders must be filed no later than the last day of the calendar month after the month when the decision was issued: sec.35.

Under section 36, the Director may also receive a written complaint regarding standards of maintenance directly from a current tenant of a residential unit. The Director must investigate the complaint through an inspector. The Act does not define "inspector" and it would appear that it contemplates a provincially appointed/employed inspector; however, provincial inspectors may only be provided in localities which have no City inspectors. Those municipalities which have their own inspectors must respond to the Director using their inspectors.

In any case, section 37 provides that as a result of the Director's involvement, the inspector, if satisfied that an applicable maintenance standard is not being observed, may issue to the landlord a (further) work order requiring compliance.

The landlord can appeal this order to the Chief Rent Officer, within 15 days, seeking review of the order. The C.R.O. may confirm, vary, quash or rescind the order or dismiss the landlord's application.

According to section 38, if work orders are still not complied with, the Director shall issue an order prohibiting any rent increase, order effective 30 days after issuance. Section 39 provides for the case where an appeal of a work order is pending, requiring a "stay" of the rent increase prohibition order until the appeal is disposed of.

Under section 41, once the Director is advised that a work order is "lifted", a notice must be issued by the Director withdrawing the previous rent increase prohibition order.

Under section 42, a landlord may make a written request to the Director, demanding that an inspector make an inspection to confirm compliance with a work order issued under section 37.

**PRACTICAL IMPLICATION:**

Demands on inspectors from tenants, the Director and landlords (to confirm the latter's compliance with the work orders). Municipalities which have their own inspectors will find their inspectors being used by the Director under sections 36, 37 and 42 of the Act. The demands on municipal inspectors' work time and their statutory duty to report back will increase by an unpredictable amount, possibly adversely affecting several inspecting departments' annual operational budgets, in spite of the recent City staff right-sizing, and other economics of local operation.

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Bill 121

Government Bill

Projet de loi 121

du gouvernement

2ND SESSION, 35TH LEGISLATURE, ONTARIO  
41 ELIZABETH II, 1992

2<sup>e</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
41 ELIZABETH II, 1992

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LAW DEPARTMENT

## Bill 121

An Act to revise the Law related to  
Residential Rent Regulation

The Hon. E. Gigantes  
Minister of Housing

## Projet de loi 121

Loi révisant les lois relatives à la  
réglementation des loyers d'habitation

L'honorable E. Gigantes  
Ministre du Logement

1st Reading June 6th, 1991

2nd Reading June 26th, 1991

3rd Reading June 2nd, 1992

Royal Assent June 25th, 1992

IN FORCE AS OF AUG. 10TH, 1992  
(Reprinted as amended by the Committee  
of the Whole House)

1<sup>re</sup> lecture 6 juin 1991

2<sup>e</sup> lecture 26 juin 1991

3<sup>e</sup> lecture

sanction royale

(Réimprimé tel qu'il a été modifié par le Comité  
plénier de l'Assemblée législative)



## EXPLANATORY NOTES

The Bill replaces the *Residential Rent Regulation Act*.

The Bill generally applies to living accommodation that would be considered a residential tenancy under the *Landlord and Tenant Act*. There are two principal exceptions. First, non-profit housing units financially supported by the federal and provincial governments are exempt. Second, newly built residential complexes are given a five-year exemption from all of the Act except the notice of rent increase provision.

### PART I

Part I sets out the basic rules for rent control. It also contains all of the matters on which an application under the Act may be based.

The guideline is the sum of the capital cost component and the operating cost component. The capital cost component for all residential complexes is 2 per cent. The operating cost component is 55 per cent of the percentage increase in the rent control index. The rent control index is to be determined taking into account the operating cost categories as set out in a Table to be prescribed.

A landlord can seek an increase above the guideline on any one or more of the following grounds:

1. An extraordinary increase in operating costs for municipal taxes, hydro, water or heating.
2. An eligible capital expenditure related to the complex as a whole or to a rental unit in it. A capital expenditure is eligible if it relates to the physical integrity of the building; health and safety standards; plumbing, heating, mechanical, electrical, ventilation and air-conditioning systems; access for persons with disabilities; or increased energy or water conservation. It is not eligible if it became necessary as a result of neglect or if it is an unnecessary replacement.
3. Any capital expenditure related to the complex as a whole or to a rental unit in it if the work was completed between January 1, 1990 and June 6, 1991. This ground is not available if the expenditure became necessary as a result of neglect. Also, an application on this ground must be made within six months of proclamation of the Bill.
4. A capital expenditure related to a rental unit if the tenant consents to the application.
5. New or additional services respecting a rental unit if the tenant consents to the application.

An increase awarded cannot exceed the guideline by more than 3 per cent in any year. The excess of an increase related to capital expenditures may be carried forward for two years.

A landlord may apply for an advance determination of an issue, similar to a conditional order, respecting capital expenditures or new or additional services.

A tenant may apply for a rent reduction on any one or more of the following grounds:

## NOTES EXPLICATIVES

Le projet de loi remplace la *Loi sur la réglementation des loyers d'habitation*.

Le projet de loi s'applique, de façon générale, aux logements qui seraient considérés comme des locaux à usage d'habitation aux termes de la *Loi sur la location immobilière*. Il présente deux exceptions majeures. Premièrement, les logements sans but lucratif subventionnés par les gouvernements fédéral et provincial sont exemptés. Deuxièmement, les ensembles d'habitation nouvellement construits sont soustraits, pendant cinq ans, à l'application de toute la Loi à l'exception de la disposition relative à l'avis d'augmentation de loyer.

### PARTIE I

La partie I énonce les règles de base du contrôle des loyers. Elle énonce également toutes les questions sur lesquelles peut se fonder une requête présentée en vertu de la Loi.

Le taux légal correspond à la somme de la composante des dépenses en immobilisations et de la composante des frais d'exploitation. La composante des dépenses en immobilisations est de 2 pour cent pour tous les ensembles d'habitation. La composante des frais d'exploitation correspond à 55 pour cent du pourcentage d'augmentation de l'indice du contrôle des loyers. L'indice du contrôle des loyers est déterminé en tenant compte des catégories de frais d'exploitation énoncées dans le barème qui sera prescrit.

Le locateur peut tenter d'obtenir une augmentation supérieure au taux légal en se fondant sur un ou plusieurs des motifs suivants :

1. Une augmentation extraordinaire des frais d'exploitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.
2. Une dépense en immobilisations admissible à l'égard de tout l'ensemble d'habitation ou d'un logement locatif qui s'y trouve. Une dépense en immobilisations est admissible si elle se rapporte à l'intégrité physique de l'immeuble, à des normes de santé et de sécurité, à une installation mécanique ou électrique, à une installation de plomberie, de ventilation ou de climatisation ou à un système de chauffage, à l'accès pour les personnes qui ont un handicap ou à l'augmentation des économies d'énergie ou d'eau. Elle n'est pas admissible si elle est devenue nécessaire en raison de négligence ou s'il s'agit d'un remplacement inutile.
3. Toute dépense en immobilisations à l'égard de tout l'ensemble d'habitation ou d'un logement locatif qui s'y trouve, si les travaux ont été achevés entre le 1<sup>er</sup> janvier 1990 et le 6 juin 1991. Ce motif ne peut être invoqué si la dépense est devenue nécessaire en raison de négligence. En outre, la requête fondée sur ce motif doit être présentée dans les six mois qui suivent la date de proclamation du projet de loi.
4. Une dépense en immobilisations à l'égard d'un logement locatif, si le locataire consent à la requête.
5. De nouveaux services ou des services supplémentaires à l'égard d'un logement locatif, si le locataire consent à la requête.

L'augmentation accordée ne peut dépasser le taux légal de plus de 3 pour cent dans une année. L'excédent d'une augmentation à l'égard de dépenses en immobilisations peut être reporté de deux ans.

Le locateur peut demander, par voie de requête, qu'une décision anticipée, similaire à une ordonnance conditionnelle, soit rendue au sujet d'une question concernant des dépenses en immobilisations, de nouveaux services ou des services supplémentaires.

Le locataire peut demander, par voie de requête, une réduction de loyer en se fondant sur un ou plusieurs des motifs suivants :



1. An extraordinary reduction in operating costs for municipal taxes, hydro, water or heating.

\* 2. Inadequate maintenance of the complex as a whole or of a rental unit in it.

3. Reduced services to the complex as a whole or to a rental unit in it.

An order on a tenant application may reduce the rent charged for a specified period or may reduce the maximum rent. It may also order a rent rebate.

Applications for the repayment of money are permitted not only for payment of illegal rent but also for key money offences committed by landlords or tenants.

An order prohibiting a rent increase may be issued if a landlord does not comply with a municipal or provincial work order or fails to file information with the Registrar when required to do so. Such an order could void any notices of rent increase for which a rent increase had not yet been taken and could prevent a landlord from issuing a notice of rent increase and increasing rent while it remains in effect. In the case of work orders, an order prohibiting a rent increase would apply to the rental units affected by the work order and, in the case of failure to file information, the order would apply to the whole residential complex.

An application can be made to determine a number of issues related to the Act, including the application of the Act; determination of maximum rent; and determinations respecting the filing of information and the Registrar's rent calculation.

## PART II

Part II sets out the procedural rules to be followed in all applications under the Act.

All applications are determined by rent officers appointed under the Act. A landlord's application based on a capital expenditure or a tenant's application based on inadequate maintenance or reduction in services must be determined after holding a hearing unless all of the parties agree otherwise. All other applications must be determined after holding a hearing if any party requests a hearing or if the Chief Rent Officer so directs. Otherwise, the proceedings are determined by administrative review. In those cases where there is to be a hearing, there is also provision for a pre-hearing conference. An order of a rent officer can be appealed to the Divisional Court only on a matter of law.

Provision is made for joining or severing applications.

The functions now carried out by the Standards Board are carried out by the Director of Rent Control and rent officers.

## PART III

Part III of the Bill provides for a rent registry system.

A landlord is required to file specified information with the Registrar if the landlord's residential complex contains four or more residential units or if the Registrar requires the registration. Registrations under the *Residential Rent Regulation Act* are carried forward to the new rent registry and those landlords who have previously registered are not required to do so again.

1. Une réduction extraordinaire des frais d'exploitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.

2. L'entretien inadéquat de tout l'ensemble d'habitation ou d'un logement locatif qui s'y trouve.

3. La réduction des services fournis à tout l'ensemble d'habitation ou à un logement locatif qui s'y trouve.

L'ordonnance rendue par suite d'une requête d'un locataire peut réduire le loyer demandé pour une période précisée ou elle peut réduire le loyer maximal. Elle peut également exiger un remboursement de loyer.

Les requêtes visant le remboursement de sommes d'argent sont permises non seulement dans le cas du paiement d'un loyer illégal mais aussi dans le cas d'infractions commises par un locateur ou un locataire qui se rapportent à des charges illégales.

Un ordre ou une ordonnance interdisant au locateur d'augmenter le loyer peut lui être délivré s'il ne se conforme pas à un arrêté, un ordre ou une ordonnance municipal ou provincial d'exécution de travaux ou qu'il omet de déclarer des renseignements au registrateur lorsqu'il est tenu de le faire. Un tel ordre ou une telle ordonnance d'interdiction a pour effet d'annuler les avis d'augmentation de loyer à l'égard desquels une augmentation de loyer n'a pas encore été perçue et, tant que l'ordre ou l'ordonnance est en vigueur, d'empêcher le locateur de donner un avis d'augmentation de loyer et d'augmenter le loyer. Dans le cas d'un arrêté, d'un ordre ou d'une ordonnance d'exécution de travaux, l'ordre ou l'ordonnance d'interdiction s'applique aux logements locatifs visés par l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux, et dans le cas d'un défaut de déclarer des renseignements, l'ordre ou l'ordonnance d'interdiction s'applique à tout l'ensemble d'habitation.

Une requête peut être présentée en vue de trancher certaines questions en litige se rapportant à la Loi, notamment l'application de celle-ci, la détermination du loyer maximal et les décisions concernant la déclaration de renseignements et le calcul du loyer effectué par le registrateur.

## PARTIE II

La partie II énonce les règles de procédure à suivre pour toutes les requêtes présentées en vertu de la Loi.

Toutes les requêtes font l'objet d'une décision de la part d'un agent des loyers nommé en vertu de la Loi. Il doit être statué, par voie d'audience, sur une requête présentée par le locateur et fondée sur une dépense en immobilisations, ainsi que sur une requête présentée par le locataire et fondée sur un entretien inadéquat ou une réduction de services, à moins que toutes les parties ne consentent à procéder différemment. Il doit être statué sur toutes les autres requêtes par voie d'audience si une partie demande la tenue d'une audience ou que l'agent principal des loyers ordonne celle-ci. S'il n'y a pas d'audience, la décision au sujet de l'instance est rendue par voie de révision administrative. Une conférence préparatoire à l'audience est également prévue dans les cas où une audience doit être tenue. L'ordonnance rendue par un agent des loyers ne peut faire l'objet d'un appel auprès de la Cour divisionnaire que sur une question de droit.

La jonction ou la séparation des requêtes est prévue.

Les fonctions actuellement assumées par le Conseil des normes le seront désormais par le directeur du contrôle des loyers et les agents des loyers.

## PARTIE III

La partie III du projet de loi prévoit un système de registre des loyers.

Le locateur est tenu de déclarer au registrateur certains renseignements si son ensemble d'habitation comprend quatre unités de logement ou plus ou si le registrateur exige l'inscription. Les inscriptions effectuées aux termes de la *Loi sur la réglementation des loyers d'habitation* sont reportées au nouveau registre des loyers. Les locateurs qui étaient déjà inscrits ne sont pas tenus de s'inscrire de nouveau.

The Registrar is required to calculate the maximum rent for the rental units for which information has been filed. The rent registry records the maximum rent for the rental units registered in it. Notice of rent information is given to landlords and tenants after the Registrar has received the initial information for filing and calculated maximum rent. If no application is made within six months of the Registrar's notice, the Registrar's calculation of maximum rent is deemed to have the same effect as an order. Other information in the rent registry can be given on request.

#### PART IV

Part IV provides for the appointment of a Director of Rent Control, inspectors, rent officers and the Registrar. It sets out powers of entry, search and seizure. It sets out the offences and regulation-making power as well as providing for general provisions, repeals and transition provisions.

The offences created under the Bill include furnishing false or misleading information, increasing or charging rent in contravention of the Act, contravening the key money prohibitions, failing to obey a provincial work order or to file a statement of rent information, obstructing or interfering with an inspector and harassing a tenant.

Le registrateur doit calculer le loyer maximal des logements locatifs au sujet desquels des renseignements ont été déclarés. Le loyer maximal des logements locatifs inscrits dans le registre des loyers est consigné dans celui-ci. Un avis de renseignements sur les loyers est donné aux locateurs et aux locataires après que le registrateur a reçu les premiers renseignements à consigner dans le registre et calculé le loyer maximal. Si aucune requête n'est présentée dans les six mois qui suivent l'avis du registrateur, le calcul du loyer maximal effectué par le registrateur est réputé avoir le même effet qu'une ordonnance. D'autres renseignements contenus dans le registre des loyers peuvent être donnés sur demande.

#### PARTIE IV

La partie IV prévoit la nomination du directeur du contrôle des loyers, d'inspecteurs, d'agents des loyers et du registrateur. Elle énonce le pouvoir de pénétrer, ainsi que les pouvoirs d'effectuer une perquisition et une saisie. Elle prévoit aussi les infractions et les pouvoirs réglementaires, ainsi que des dispositions générales, abrogatives et transitoires.

Les infractions créées par le projet de loi comprennent le fait de fournir des renseignements faux ou trompeurs, d'augmenter ou de demander un loyer contrairement à la Loi, de contrevenir aux interdictions à l'égard des charges illégales, de ne pas se conformer à un arrêté, un ordre ou une ordonnance provincial d'exécution de travaux ou de ne pas déposer de déclaration de renseignements sur les loyers, d'entraver le travail d'un inspecteur ou d'empêcher celui-ci de le faire, et de harceler un locataire.



## An Act to revise the Law related to Residential Rent Regulation

## Loi révisant les lois relatives à la réglementation des loyers d'habitation

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

## 1.—(1) In this Act,

“capital component”, in respect of maximum rent, means the capital component of the maximum rent for a particular capital expenditure, as determined under subsection 20 (8) or 22 (4), as the case may be; (“élément d’immobilisations”)

“Director” means the Director of Rent Control appointed under section 120; (“directeur”)

“guideline”, in respect of a rental unit in a residential complex, means the rent control guideline determined under section 12 for that residential complex; (“taux légal”)

“landlord” includes—

- (a) the owner or other person permitting occupancy of a rental unit,
- (b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a), and
- (c) a person, other than a tenant occupying a rental unit in a residential com-

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- 140. Titre abrégé

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :

1 (1) Les définitions qui suivent s’appliquent à la présente loi.

## Définitions

«bail» Convention écrite, verbale ou tacite entre le locateur et le locataire relativement à l’occupation d’un logement locatif. («tenancy agreement»)

«coopérative de logement sans but lucratif» Personne morale constituée sans capital-actions en vertu de la *Loi sur les sociétés coopératives* ou d’une loi que celle-ci remplace, ou en vertu d’une loi analogue du Canada ou d’une province, dont le but et la fonction consistent principalement à fournir le logement à ses membres et dont la charte, les règlements administratifs ou les statuts prévoient ce qui suit :

- a) ses activités sont exercées sans but lucratif pour ses membres,
- b) si elle est dissoute, ses biens sont cédés ou distribués, après acquittement de ses dettes et obligations, à une ou plusieurs coopératives de logement oeuvrant dans un but non lucratif ou oeuvres de bienfaisance,



*50-12-101*  
plex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent; ("locateur")

"maximum rent" means the lawful maximum rent for a rental unit; ("loyer maximal")

"Minister" means the Minister of Housing; ("ministre")

"Ministry" means the Ministry of Housing; ("ministère")

"mobile home" means any dwelling that is designed to be made mobile and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer, tent trailer or a trailer otherwise designed; ("maison mobile")

"mobile home park" means the rental units, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord where two or more occupied mobile homes are located for a period of sixty days or more; ("parc de maisons mobiles")

"non-profit co-operative housing corporation" means a corporation incorporated without share capital under the *Co-operative Corporations Act* or any predecessor of it or under similar legislation of Canada or any province, the main purpose and activity of which is the provision of housing for its members, and the charter, by-laws or articles of which provide that,

(a) its activities shall be carried on without the purpose of gain for its members,

(b) on dissolution, its property after payment of its debts and liabilities, shall be transferred to or distributed among one or more non-profit housing co-operatives or charitable organizations,

(c) housing charges, other charges similar to rent, or any other charges payable by members are decided by a vote of the members or of a body duly elected or appointed by the members, or a committee of that body,

(d) termination of occupancy rights may be brought about only by a vote of the members or of a body duly elected or appointed by the members or a committee of that body, which vote is not taken until after the member whose occupancy rights are terminated is given a right to appear and make rep-

c) les frais de logement, les autres charges analogues au loyer ou les autres charges payables par les membres sont fixés par un vote de ces derniers ou d'un groupe dûment élu ou nommé par les membres ou un comité de ce groupe,

d) il ne peut être mis fin aux droits d'occupation d'un membre que par un vote des membres ou d'un groupe dûment élu ou nommé par les membres ou un comité de ce groupe, le vote n'étant pris qu'après que ce membre a reçu le droit de comparaître et de présenter des observations. («non-profit co-operative housing corporation»)

«directeur» Le directeur du contrôle des loyers nommé aux termes de l'article 120. («Director»)

«élément d'immobilisations» En ce qui concerne le loyer maximal, l'élément d'immobilisations du loyer maximal à l'égard d'une dépense en immobilisations particulière, tel qu'il est déterminé aux termes du paragraphe 20 (8) ou 22 (4), selon le cas. («capital component»)

«ensemble d'habitation» S'entend, selon le cas :

a) d'un immeuble ou d'un groupe d'immeubles connexes où sont situés un ou plusieurs logements locatifs,

b) d'un parc de maisons mobiles où sont situés un ou plusieurs logements locatifs,

c) d'un emplacement qui constitue un logement locatif,

d) d'un groupe d'emplacements connexes dont chacun constitue un logement locatif.

S'entend en outre de toutes les aires communes et de tous les services et installations dont disposent les résidents. («residential complex»)

«locataire» Personne qui paie un loyer en échange du droit d'occuper un logement locatif. S'entend notamment des héritiers, cessionnaires et représentants personnels du locataire. Est exclue de la présente définition la personne qui a le droit d'occuper un logement locatif du fait qu'elle est, selon le cas :

a) un copropriétaire de l'ensemble d'habitation dans lequel se trouve le logement locatif,

b) un actionnaire de la personne morale qui est propriétaire de l'ensemble d'habitation. («tenant»)

«locateur» S'entend notamment :



resentations; ("coopérative de logement sans but lucratif")

"person", or any expression referring to a person, means an individual, sole proprietorship, partnership, limited partnership, trust, body corporate, and an individual in his or her capacity as a trustee, executor, administrator or other legal representative; ("personne")

"prescribed" means prescribed by the regulations made under this Act; ("prescrit")

"rent" includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord's agent for the right to occupy a rental unit and for any services and facilities or any privilege, accommodation or thing that the landlord provides for the tenant in respect of the occupancy of the rental unit, whether or not a separate charge is made for services and facilities or for the privilege, accommodation or thing, but "rent" does not include any amount,

(a) paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord to a municipality in respect of a mobile home, or a home which is a permanent structure owned by a tenant, and

(b) in respect of which the landlord can establish the portion of the municipal taxes that relates to the tenant's mobile home or home which is a permanent structure; ("loyer")

"rental unit" means any living accommodation, site for a mobile home or site on which there is a single-family dwelling that is a permanent structure where the living accommodation or site is used or intended for use as rented residential premises and includes a room in a boarding house or lodging house; ("logement locatif")

"residential complex" means,

(a) a building or related group of buildings in which one or more rental units are located,

(b) a mobile home park in which one or more rental units are located,

(c) a site that is a rental unit, or

(d) a related group of sites each of which is a rental unit,

and "residential complex" includes all common areas and services and facilities available for the use of its residents; ("ensemble d'habitation")

"residential unit" means any living accommodation, site for a mobile home or site on

a) du propriétaire d'un logement locatif ou d'une autre personne qui en permet l'occupation,

b) des héritiers d'une personne mentionnée à l'alinéa a), de ses cessionnaires, de ses représentants personnels et de ses ayants droit,

c) d'une personne, autre qu'un locataire qui occupe un logement locatif dans un ensemble d'habitation, qui a droit à la possession de l'ensemble d'habitation et qui tente de faire respecter les droits d'un locateur prévus par un bail ou par la présente loi, y compris le droit de percevoir un loyer. («landlord»)

«logement locatif» Logement, emplacement de maison mobile ou emplacement où se trouve une habitation unifamiliale constituant une construction permanente, servant ou destinés à servir de local d'habitation loué. S'entend notamment d'une chambre dans une pension ou un meublé. («rental unit»)

«loyer» S'entend notamment du montant de la contrepartie que le locataire ou une personne en son nom paie ou remet, ou doit payer ou remettre, au locateur ou à son représentant pour le droit d'occuper un logement locatif et pour les services et installations, privilèges, commodités ou choses que le locateur fournit au locataire à l'égard de l'occupation du logement locatif, que des charges distinctes soient exigées ou non pour les services et installations, privilèges, commodités ou choses. Sont exclues de la présente définition :

a) une somme payée par le locataire au locateur pour rembourser les impôts fonciers payés par le locateur à une municipalité à l'égard d'une maison mobile ou d'une maison constituant une construction permanente, dont le locataire est propriétaire,

b) une somme à l'égard de laquelle le locateur est en mesure d'établir la portion des impôts municipaux qui se rapporte à la maison mobile du locataire ou à la maison du locataire qui constitue une construction permanente. («rent»)

«loyer maximal» Le loyer maximal légal d'un logement locatif. («maximum rent»)

«maison mobile» Habitation destinée à pouvoir être déplacée, et construite ou fabriquée de façon à servir de résidence permanente à une ou plusieurs personnes. Sont exclus de la présente définition la roulotte, la tente-remorque et tout autre genre de remorque. («mobile home»)

which there is a single-family dwelling that is a permanent structure where the living accommodation or site is used or intended for use as residential premises and includes a room in a boarding house or lodging house; ("unité de logement")

"services and facilities" includes,

- (a) furniture, appliances and furnishings,
- (b) parking and related facilities,
- (c) laundry facilities,
- (d) elevator facilities,
- (e) common recreational facilities,
- (f) garbage facilities and related services,
- (g) cleaning and maintenance services,
- (h) storage facilities,
- (i) intercom systems,
- (j) cablevision facilities,
- (k) heating facilities and services,
- (l) air-conditioning facilities,
- (m) utilities and related services,
- (n) security services and facilities; ("services et installations")

"tenancy agreement" means an agreement between a landlord and a tenant for occupancy of a rental unit, whether the agreement is written, oral or implied; ("bail")

"tenant" means a person who pays rent in return for the right to occupy a rental unit and includes the tenant's heirs, assigns and personal representatives, but "tenant" does not include a person who has the right to occupy a rental unit by virtue of being,

- (a) a co-owner of the residential complex in which the rental unit is located, or
- (b) a shareholder of a corporation that owns the residential complex. ("locataire")

«ministère» Le ministère du Logement. («Ministry»)

«ministre» Le ministre du Logement. («Minister»)

«parc de maisons mobiles» Les logements locatifs, ainsi que le terrain, les constructions et les services et installations qui demeurent en la possession du locateur et qui sont destinés à l'usage commun des locataires du locateur, où deux maisons mobiles habitées ou plus sont installées pendant une période minimale de soixante jours. («mobile home park»)

«personne» S'entend d'un particulier, d'une entreprise à propriétaire unique, d'une société en nom collectif, d'une société en commandite, d'une fiducie, d'une personne morale et d'un particulier en sa qualité de fiduciaire, d'exécuteur testamentaire, d'administrateur successoral ou d'ayant droit. La présente définition s'applique à toute formulation de sens analogue. («person»)

«prescrit» Prescrit par les règlements pris en application de la présente loi. («prescribed»)

«services et installations» S'entend notamment de ce qui suit :

- a) les meubles, les appareils ménagers et l'ameublement,
- b) le stationnement et les installations connexes,
- c) les installations de buanderie,
- d) les ascenseurs et les monte-charge,
- e) les installations récréatives communes,
- f) les installations d'enlèvement des ordures et les services connexes,
- g) les services de nettoyage et d'entretien,
- h) les installations d'entreposage,
- i) les réseaux d'interphone,
- j) les installations de câblodistribution,
- k) les installations et les services de chauffage,
- l) les installations de climatisation,
- m) les services publics et les services connexes,
- n) les services et les installations de sécurité. («services and facilities»)

«taux légal» À l'égard d'un logement locatif d'un ensemble d'habitation, s'entend du taux légal aux fins du contrôle des loyers établi aux termes de l'article 12 pour cet ensemble d'habitation. («guideline»)



Rental unit,  
clarification

(2) A rented site for a mobile home or a single-family dwelling is a rental unit for the purpose of subsection (1) even if the mobile home or the single-family dwelling on the site is owned by the tenant of the site.

Residential  
complex,  
clarification

(3) Unless otherwise prescribed, a group of buildings is related for the purpose of subsection (1) if the buildings are owned by the same person or related persons, the buildings are located close to one another and,

- (a) the buildings share common services and facilities; or
- (b) the buildings are managed and administered as one business operation.

Initial rent  
date

(4) A reference in this Act to the initial rent date for a rental unit shall, except where otherwise prescribed, be deemed to be a reference to the date set out in the first of the following paragraphs that applies to the rental unit:

1. In the case of a rental unit in a residential complex to which subsection 3 (7) applies, the date on which Part I first applies to it.
2. In the case of a rental unit to which Part VI or VI.1 of the *Residential Rent Regulation Act* did not apply,
  - i. the day it is first rented after the day this section is proclaimed in force if it was not rented on or before that day, or
  - ii. the day this section is proclaimed in force, otherwise.
3. In the case of a rental unit in a residential complex containing six or fewer residential units (or of a rental unit in a residential complex that is a boarding house or a lodging house,
  - i. the date it is first rented, if it was not rented on or before the 1st day of October, 1990,

«unité de logement» Logement, emplacement de maison mobile ou emplacement où se trouve une habitation unifamiliale constituant une construction permanente, servant ou destinés à servir de local d'habitation. S'entend notamment d'une chambre dans une pension ou un meublé. («residential unit»)

(2) Tout emplacement loué de maison mobile ou d'habitation unifamiliale constitue un logement locatif pour l'application du paragraphe (1), même si la maison mobile ou l'habitation unifamiliale qui se trouve sur l'emplacement est la propriété du locataire de l'emplacement.

Précision  
relative au  
logement  
locatif

(3) Sauf s'il en est prescrit autrement, un groupe d'immeubles est connexe pour l'application du paragraphe (1) si les immeubles sont la propriété de la même personne ou de personnes liées, qu'ils sont situés à proximité les uns des autres et que, selon le cas :

Précision  
relative à  
l'ensemble  
d'habitation

- a) ils partagent des installations et services communs;
- b) ils sont gérés et administrés comme une seule exploitation commerciale.

(4) Dans la présente loi, la mention de la date du loyer initial d'un logement locatif est réputée, sauf s'il en est prescrit autrement, la mention de la date énoncée dans la première des dispositions suivantes qui s'applique au logement locatif :

Date du loyer  
initial

1. Dans le cas d'un logement locatif d'un ensemble d'habitation auquel s'applique le paragraphe 3 (7), la date à laquelle la partie I commence à s'appliquer au logement locatif.
2. Dans le cas d'un logement locatif auquel la partie VI ou VI.1 de la *Loi sur la réglementation des loyers d'habitation* ne s'appliquait pas :
  - i. le jour où il est loué pour la première fois après le jour où le présent article est proclamé en vigueur, s'il n'était pas loué à ce jour ou avant ce jour,
  - ii. le jour où le présent article est proclamé en vigueur, s'il en était autrement.
3. Dans le cas d'un logement locatif d'un ensemble d'habitation comprenant six unités de logement ou moins, ou d'un logement locatif d'un ensemble d'habitation qui est une pension ou un meublé :
  - i. la date à laquelle il est loué pour la première fois, s'il n'était pas loué au 1<sup>er</sup> octobre 1990 ou avant cette date,



- ii. the 1st day of October, 1990, if it was rented on that date.
- 4. In the case of a rental unit in a residential complex containing seven or more residential units,
  - i. the date it is first rented after the 1st day of July, 1985, if it was not rented on or before that day,
  - ii. the 1st day of July, 1985, otherwise.

Application of Act

**2.—(1)** This Act applies to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary.

Conflict

(2) If a provision of this Act conflicts with a provision of another Act, other than the *Human Rights Code*, the provision of this Act applies.

Exemptions from Act

**3.—(1)** This Act does not apply to,

- (a) accommodation provided to the traveling and vacationing public in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast vacation establishment or farm vacation home;
- (b) living accommodation occupied as a vacation home for a seasonal or temporary period not exceeding four months;
- (c) living accommodation whose occupancy is conditional upon the occupant continuing to be employed on a farm, whether or not the accommodation is located on that farm;
- (d) living accommodation provided by a non-profit co-operative housing corporation to its members;
- (e) living accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;
- (f) accommodation that is subject to the *Public Hospitals Act*, the *Private Hospitals Act*, the *Community Psychiatric Hospitals Act*, the *Mental Hospitals Act*, the *Homes for Special Care Act*, the *Homes for the Aged and Rest Homes Act*, the *Homes for Retarded*

- ii. le 1<sup>er</sup> octobre 1990, s'il était loué à cette date.

- 4. Dans le cas d'un logement locatif d'un ensemble d'habitation comprenant sept unités de logement ou plus :

- i. la date à laquelle il est loué pour la première fois après le 1<sup>er</sup> juillet 1985, s'il n'était pas loué à cette date ou avant cette date,
- ii. le 1<sup>er</sup> juillet 1985, s'il en était autrement.

Champ d'application

**2** (1) La présente loi s'applique aux logements locatifs qui se trouvent dans des ensembles d'habitation, malgré toute autre loi et toute convention ou renonciation contraires.

Incompatibilité

(2) En cas d'incompatibilité entre une disposition de la présente loi et une disposition d'une loi autre que le *Code des droits de la personne*, la disposition de la présente loi s'applique.

Exemptions

**3** (1) La présente loi ne s'applique pas aux logements suivants :

- a) les logements fournis aux voyageurs et aux vacanciers dans un hôtel, un motel, un hôtel de tourisme, un lieu de séjour, un camp de vacances, un établissement composé de chalets ou de maisonnettes, une auberge, un terrain de camping, un parc à roulettes, une maison de chambres pour touristes, un établissement de vacances offrant gîte et couvert ou une résidence de vacances à la ferme;
- b) un logement occupé comme résidence de vacances pendant une période saisonnière ou temporaire qui ne dépasse pas quatre mois;
- c) un logement dont l'occupation dépend du fait que l'occupant continue d'être employé dans une exploitation agricole, que le logement soit situé ou non dans l'exploitation agricole;
- d) un logement fourni par une coopérative de logement sans but lucratif à ses membres;
- e) un logement occupé par une personne à des fins pénales, correctionnelles ou thérapeutiques, ou à des fins de réadaptation, ou pour y recevoir des soins;
- f) un logement assujéti à l'une des lois suivantes, soit la *Loi sur les hôpitaux publics*, la *Loi sur les hôpitaux privés*, la *Loi sur les hôpitaux psychiatriques communautaires*, la *Loi sur les hôpitaux psychiatriques*, la *Loi sur les foyers de soins spéciaux*, la *Loi sur les*

*Persons Act, the Nursing Homes Act, the Ministry of Correctional Services Act, the Charitable Institutions Act, the Child and Family Services Act, the Developmental Services Act, the Ministry of Health Act or the Ministry of Community and Social Services Act;*

- (g) short term living accommodation provided as emergency shelter;
- (h) living accommodation provided by an educational institution to its students or staff where,
- (i) the living accommodation is provided primarily to persons under the age of majority, or
  - (ii) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents,

unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupancy by full-time students or staff and members of their households;

- (i) living accommodation located in a building or project used in whole or in part for non-residential purposes if the occupancy of the living accommodation is conditional upon the occupant continuing to be an employee of or perform services related to a business or enterprise carried out in the building or project;
- (j) living accommodation whose occupant is required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent, or the spouse's child or parent;
- (k) premises occupied for business or agricultural purposes with living accommodation attached if the occupancy for both purposes are under a single lease and the same person occupies the premises and the living accommodation.

(2) Sections 6, 7 and 8 (when increase permitted, notice of rent increase) are the only sections of this Act that apply to a rental unit described below other than a rental unit

*foyers pour personnes âgées et les maisons de repos, la Loi sur les foyers pour déficients mentaux, la Loi sur les maisons de soins infirmiers, la Loi sur le ministère des Services correctionnels, la Loi sur les établissements de bienfaisance, la Loi sur les services à l'enfance et à la famille, la Loi sur les services aux personnes atteintes d'un handicap de développement, la Loi sur le ministère de la Santé ou la Loi sur le ministère des Services sociaux et communautaires;*

- g) un refuge d'urgence destiné à héberger temporairement des personnes;
- h) un logement fourni par un établissement d'enseignement à ses étudiants ou à son personnel si, selon le cas :
- (i) le logement est fourni principalement à des mineurs,
  - (ii) toutes les questions importantes ayant trait au logement sont réglées après consultation d'un conseil ou d'une association représentant les résidents,

sauf si le logement est doté d'une salle de bains et d'une cuisine indépendantes et qu'il est destiné à être occupé à longueur d'année par des étudiants ou membres du personnel à temps plein, ainsi que des membres du ménage de ces étudiants ou de ces membres du personnel;

- i) un logement situé dans un immeuble ou un chantier utilisé en totalité ou en partie à des fins autres que l'habitation si l'occupation du logement dépend du fait que l'occupant continue d'être employé dans un commerce ou une entreprise exploité dans l'immeuble ou le chantier, ou continue de fournir des services relatifs à ce commerce ou à cette entreprise;
- j) un logement dont l'occupant doit partager une salle de bains ou une cuisine avec le propriétaire, son conjoint, son enfant, son père ou sa mère, ou l'enfant, le père ou la mère du conjoint;
- k) des locaux occupés dans le cadre d'une exploitation commerciale ou agricole, et auxquels est rattaché un logement, si l'occupation des locaux et du logement fait l'objet d'un bail unique et que la même personne occupe les locaux et le logement.

(2) Les articles 6, 7 et 8 (augmentation permise, avis d'augmentation de loyer) sont les seuls articles de la présente loi qui s'appliquent à un logement locatif décrit ci-dessous

Exemption  
partielle

Partial  
exemption



occupied by a tenant who pays rent in an amount geared-to-income due to public funding:

1. Subject to subsection (3), a rental unit located in a residential complex owned, operated or administered by or on behalf of the Ontario Housing Corporation, the Government of Canada or an agency of either of them.
2. A rental unit located in a non-profit housing project, which is financially assisted by the Government of Canada or Ontario, a municipality or a regional, district or metropolitan municipality or an agency of any of them.
3. A rental unit located in a non-profit co-operative housing project as defined in the *National Housing Act* (Canada).
4. A rental unit provided by a non-profit co-operative housing corporation to tenants who are not its members.

Exception

(3) This Act applies to a rental unit described in paragraph 1 of subsection (2) if the tenant occupying the rental unit pays rent to a landlord other than the Ontario Housing Corporation, the Government of Canada or an agency of either of them.

Partial exemption

(4) Sections 7 and 8 (notice of rent increase) are the only sections of this Act that apply to,

- (a) subject to subsection (5), a rental unit that is provided by an educational institution to a student or member of its staff and that is not exempt from this Act under clause (1) (h);
- (b) a rental unit located in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis;
- (c) a rental unit described in paragraph 1, 2, 3 or 4 of subsection (2) where a tenant occupying the rental unit pays rent in an amount geared-to-income due to public funding.

Exception

(5) This Act applies in respect of a rent increase for rental units described in clause (4) (a) if there is a council or association

qui n'est pas un logement locatif occupé par un locataire qui paie un loyer indexé sur le revenu en raison d'un financement public :

1. Sous réserve du paragraphe (3), un logement locatif situé dans un ensemble d'habitation qui appartient à la société appelée Ontario Housing Corporation, au gouvernement du Canada ou à un organisme qui relève de l'un deux, ou qui est exploité ou administré par l'un d'eux ou au nom de l'un deux.
2. Un logement locatif situé dans un projet d'habitation sans but lucratif qui fait l'objet d'une aide financière de la part du gouvernement du Canada ou de l'Ontario, d'une municipalité ou d'une municipalité régionale, de district ou de communauté urbaine, ou d'un organisme qui relève de l'un d'eux.
3. Un logement locatif situé dans un projet coopératif d'habitation sans but lucratif au sens de la *Loi nationale sur l'habitation* (Canada).
4. Un logement locatif fourni par une coopérative de logement sans but lucratif à des locataires qui n'en sont pas membres.

Exception

(3) La présente loi s'applique à un logement locatif décrit à la disposition 1 du paragraphe (2) si le locataire qui occupe le logement locatif paie un loyer à un locateur autre que la société appelée Ontario Housing Corporation, le gouvernement du Canada ou un organisme qui relève de l'un d'eux.

Exemption partielle

(4) Les articles 7 et 8 (avis d'augmentation de loyer) sont les seuls articles de la présente loi qui s'appliquent aux logements suivants :

- a) sous réserve du paragraphe (5), un logement locatif qui est fourni par un établissement d'enseignement à un étudiant ou à un membre de son personnel et qui n'est pas soustrait à l'application de la présente loi aux termes de l'alinéa (1) h);
- b) un logement locatif situé dans un ensemble d'habitation dont un établissement religieux est propriétaire ou assure l'exploitation ou l'administration sans but lucratif et à des fins de bienfaisance;
- c) un logement locatif décrit à la disposition 1, 2, 3 ou 4 du paragraphe (2) lorsqu'un locataire qui occupe le logement locatif paie un loyer indexé sur le revenu grâce à un financement public.

Exception

(5) La présente loi s'applique à une augmentation de loyer des logements locatifs décrits à l'alinéa (4) a) si un conseil ou une



representing the residents of those rental units and there has not been consultation with the council or association respecting the increase.

Idem

(6) This Act applies to a rental unit other than a rental unit described in paragraph 1, 2, 3 or 4 of subsection (2) where a tenant occupying the rental unit pays rent in an amount geared-to-income due to public funding but this Act does not apply to an increase in the amount geared-to-income paid by a tenant who is occupying such a rental unit.

Time limited exemption

(7) Sections 6, 7, 8, 103, 107, 108 and 109 are the only sections of this Act that apply to a rental unit in a new residential complex during the period of five years commencing with the day the first rental unit in the residential complex is first rented if,

- (a) no residential unit in the residential complex is occupied before the 1st day of November, 1991; and
- (b) before the landlord enters into a tenancy agreement with a tenant of the rental unit, the landlord gives the tenant a notice in the prescribed form stating that because of this subsection only sections 6, 7, 8, 103, 107, 108 and 109 of this Act will apply to the rental unit until the date set out in the notice.

Clarification

(8) If a landlord fails to give the tenant of a rental unit referred to in subsection (7) the notice as required under clause (7) (b), this whole Act applies in respect of the rental unit from the commencement of the tenancy agreement with the tenant.

Date

(9) The date set out in the notice under subsection (7) shall be the date that is five years after the first rental unit in the residential complex is rented for the first time.

When exemption lost

(10) If a landlord fails to file a statement for a new residential complex under section 103 within the required time, subsection (7) will cease to apply to the residential complex on the day after the day on which that statement is required.

Transitional

(11) Subsection (7) applies in respect of a tenancy agreement entered into before this section is proclaimed in force and in that case the notice under clause (7) (b) given to the tenant is sufficient if it is in writing and sets out the fact that the rental unit will be exempt from this Act on its coming into force and the date on which that exemption will end.

association représente les résidents de ces logements locatifs et que le conseil ou l'association n'a pas été consulté au sujet de l'augmentation.

Idem

(6) La présente loi s'applique à un logement locatif autre qu'un logement locatif décrit à la disposition 1, 2, 3 ou 4 du paragraphe (2) lorsqu'un locataire qui occupe le logement locatif paie un loyer indexé sur le revenu grâce à un financement public. Toutefois, elle ne s'applique pas à une augmentation du montant indexé sur le revenu que paie le locataire qui occupe un tel logement locatif.

Exemption limitée dans le temps

(7) Les articles 6, 7, 8, 103, 107, 108 et 109 sont les seuls articles de la présente loi qui s'appliquent à un logement locatif d'un nouvel ensemble d'habitation pendant la période de cinq ans qui commence le jour où le premier logement locatif de l'ensemble d'habitation est loué pour la première fois, si :

- a) d'une part, aucune unité de logement de l'ensemble d'habitation n'est occupée avant le 1<sup>er</sup> novembre 1991;
- b) d'autre part, avant qu'il ne conclue un bail avec un locataire du logement locatif, le locateur donne au locataire un avis, rédigé selon la formule prescrite, indiquant qu'en raison du présent paragraphe seuls les articles 6, 7, 8, 103, 107, 108 et 109 de la présente loi s'appliqueront au logement locatif jusqu'à la date fixée dans l'avis.

Précision

(8) Si le locateur omet de donner au locataire d'un logement locatif visé au paragraphe (7) l'avis exigé en vertu de l'alinéa (7) b), la présente loi s'applique, dans son intégralité, au logement locatif à compter de l'entrée en vigueur du bail conclu avec le locataire.

Date

(9) La date fixée dans l'avis prévu au paragraphe (7) est la date qui tombe cinq ans après que le premier logement locatif de l'ensemble d'habitation est loué pour la première fois.

Perte de l'exemption

(10) Si le locateur omet de déposer la déclaration relative au nouvel ensemble d'habitation prévue à l'article 103 dans le délai imparti, le paragraphe (7) cesse de s'appliquer à l'ensemble d'habitation le jour suivant celui où la déclaration est exigée.

Disposition transitoire

(11) Le paragraphe (7) s'applique à l'égard d'un bail conclu avant que le présent article ne soit proclamé en vigueur et, dans ce cas, l'avis prévu à l'alinéa (7) b) et donné au locataire est suffisant s'il est donné par écrit et qu'il énonce le fait que le logement locatif sera soustrait à l'application de la présente loi lorsqu'elle entrera en vigueur et la date à laquelle l'exemption prendra fin.

Act binds  
Crown

#### 4. This Act binds the Crown.

### PART I RENT CONTROL

No charge  
greater than  
maximum  
rent

5.—(1) No landlord shall charge rent for a rental unit in an amount that exceeds the maximum rent for that rental unit.

No charge  
greater than  
ordered

(2) No landlord shall charge rent for a rental unit in an amount that exceeds the charge permitted under this Act or an order made under this Act.

When  
increase  
permitted

6. A landlord shall not increase the rent charged for a rental unit unless at least twelve months have elapsed,

- (a) since the date of the last rent increase for that rental unit; or
- (b) if there has been no such rent increase, since the day the rental unit was rented for the first time.

### NOTICE OF RENT INCREASE

Notice of  
rent increase

7.—(1) A landlord shall not increase the rent charged for a rental unit without first giving the tenant at least ninety days notice of the landlord's intention to do so.

Idem

(2) The notice shall be in the prescribed form and shall set out the landlord's intention to increase the rent and the amount of the intended increase.

Idem

(3) If, at any time before the notice is given, an order has been made under this Act increasing the maximum rent for a rental unit by more than the guideline, the notice shall include information setting out the total cost for the residential complex for each of municipal taxes, heat, hydro and water for two consecutive years, as prescribed.

Exception

(4) Subsection (3) does not apply if the date of increase set out in the notice is before the day that is twelve months after the first effective date of the first order under this Act that increases the maximum rent for a rental unit in the residential complex by more than the guideline.

Increase void  
without  
notice

(5) An increase in rent is void if the landlord has not given the notice required by this section.

Notice  
unnecessary  
for new  
tenant

(6) Subsections (1), (2), (3) and (4) do not apply to a rent increase that takes effect when a new tenant first occupies a rental unit under a new tenancy agreement.

#### 4 La présente loi lie la Couronne.

### PARTIE I CONTRÔLE DES LOYERS

5 (1) Nul locateur ne doit demander pour un logement locatif un loyer qui dépasse le loyer maximal pour ce logement locatif.

Montant  
supérieur au  
loyer maximal  
interdit

(2) Nul locateur ne peut demander pour un logement locatif un loyer qui dépasse le montant permis en vertu de la présente loi ou d'une ordonnance rendue en vertu de la présente loi.

Montant  
supérieur au  
montant  
ordonné  
interdit

6 Le locateur ne peut augmenter le loyer demandé pour un logement locatif à moins qu'une période d'au moins douze mois ne se soit écoulée :

Augmentation  
permise

- a) depuis la date de la dernière augmentation de loyer de ce logement locatif;
- b) s'il n'y a pas eu d'augmentation de loyer, depuis le jour où ce logement locatif a été loué pour la première fois.

### AVIS D'AUGMENTATION DE LOYER

7 (1) Le locateur ne doit pas augmenter le loyer d'un logement locatif sans d'abord donner au locataire un avis d'au moins quatre-vingt-dix jours l'informant de son intention.

Avis d'aug-  
mentation de  
loyer

(2) L'avis est rédigé selon la formule prescrite et fait part de l'intention du locateur d'augmenter le loyer et du montant de l'augmentation proposée.

Idem

(3) Si, avant que l'avis ne soit donné, une ordonnance augmentant d'un pourcentage supérieur au taux légal le loyer maximal d'un logement locatif a été rendue en vertu de la présente loi, l'avis énonce séparément pour l'ensemble d'habitation le coût total des impôts municipaux, du chauffage, de l'électricité et de l'eau pour deux années consécutives déterminées de la manière prescrite.

Idem

(4) Le paragraphe (3) ne s'applique pas si la date d'augmentation énoncée dans l'avis est antérieure au jour qui tombe douze mois après la première date d'entrée en vigueur de la première ordonnance rendue en vertu de la présente loi qui augmente d'un pourcentage supérieur au taux légal le loyer maximal d'un logement locatif de l'ensemble d'habitation.

Exception

(5) L'augmentation de loyer est nulle si le locateur n'a pas donné l'avis exigé au présent article.

Nullité de  
l'augmenta-  
tion sans

(6) Les paragraphes (1), (2), (3) et (4) ne s'appliquent pas à une augmentation de loyer qui entre en vigueur lorsqu'un nouveau loca-

Avis non  
obligatoire  
pour les nou-  
veaux locatai-  
res



Deemed compliance

(7) A notice of rent increase given in compliance with this Act, the *Residential Rent Regulation Act* or the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, shall be deemed to be and always to have been sufficient notice for the purposes of section 123 and subsection 129 (1) of the *Landlord and Tenant Act*.

If tenant fails to give notice

8. If a tenant who has been given notice of an intended rent increase under section 7 fails to give the landlord proper notice of termination under the *Landlord and Tenant Act*, the tenant shall be deemed to have accepted whatever rent increase would be allowed under this Act after the landlord and the tenant have exercised their rights under this Act.

Notice to new tenant

9.—(1) Before entering into a tenancy agreement with a new tenant, the landlord shall give the new tenant a notice in writing setting out the maximum rent for the rental unit.

Idem

(2) The notice shall also inform the new tenant of the most recent notice of rent increase given, any pending application made by the landlord under this Act or the *Residential Rent Regulation Act*, any notice of pending decrease in rent under section 114, any current order or any current notice of carry forward that affects the rental unit and any appeal that is pending from the order.

If tenant not informed of maximum rent

(3) If the landlord fails to give the new tenant the notice required under this section, the landlord shall not increase the actual rent charged to the tenant by more than the guideline unless twenty-four months have elapsed since the new tenant first occupied the rental unit.

#### MAXIMUM RENT

Maximum rent

10.—(1) Subject to subsections (3), (5), (7) and (9), the maximum rent for a rental unit on a given date is the sum of,

- (a) the maximum rent for that rental unit on the initial rent date, as determined under subsection (2); and
- (b) all increases that were required or permitted to be added to it and all decreases that were required to be subtracted from it under this Act, the *Residential Rent Regulation Act* or the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of

taire commence à occuper le logement locatif en vertu d'un nouveau bail.

(7) L'avis d'augmentation de loyer donné conformément à la présente loi, à la *Loi sur la réglementation des loyers d'habitation* ou à la loi intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, est réputé être et avoir toujours été un avis suffisant pour l'application de l'article 123 et du paragraphe 129 (1) de la *Loi sur la location immobilière*.

Avis réputé conforme

8 Le locataire qui a reçu un avis d'augmentation de loyer proposée aux termes de l'article 7 et qui ne donne pas au locateur l'avis de résiliation prévu par la *Loi sur la location immobilière* est réputé avoir accepté toute augmentation de loyer qui serait permise par la présente loi après que le locateur et le locataire ont exercé leurs droits en vertu de la présente loi.

Défaut d'avis de résiliation

9 (1) Avant de conclure un bail avec un nouveau locataire, le locateur donné au nouveau locataire un avis écrit l'informant du loyer maximal du logement locatif.

Avis au nouveau locataire

(2) L'avis informe également le nouveau locataire du dernier avis d'augmentation de loyer qui a été donné, des requêtes ou demandes en cours présentées par le locateur en vertu de la présente loi ou de la *Loi sur la réglementation des loyers d'habitation*, de tout avis de réduction de loyer en cours visé à l'article 114, de tout avis de report en vigueur, qui visent le logement locatif, de tout arrêté, ordre ou ordonnance en vigueur qui vise le logement locatif et de tout appel de ceux-ci qui est en cours.

Idem

(3) S'il omet de donner au nouveau locataire l'avis exigé aux termes du présent article, le locateur ne peut augmenter le loyer réel demandé au locataire d'un pourcentage supérieur au taux légal, à moins qu'une période de vingt-quatre mois ne se soit écoulée depuis que le nouveau locataire a commencé à occuper le logement locatif.

Cas où le locataire n'est pas avisé du loyer maximal

#### LOYER MAXIMAL

10 (1) Sous réserve des paragraphes (3), (5), (7) et (9), le loyer maximal d'un logement locatif à une date déterminée correspond à la somme des montants suivants :

Loyer maximal

- a) le loyer maximal de ce logement locatif à la date du loyer initial, déterminé selon le paragraphe (2);
- b) toutes les augmentations qui devaient être ajoutées ou qu'il était permis d'ajouter au loyer maximal, et toutes les diminutions qui devaient être soustraites de celui-ci, en vertu de la présente loi, de la *Loi sur la réglementation des loyers d'habitation* ou de la loi



Ontario, 1980, during the period from the initial rent date to the given date.

intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, pendant la période allant de la date du loyer initial à la date déterminée.

Idem

(2) The maximum rent for a rental unit on the initial rent date for that rental unit, unless otherwise prescribed, is,

(2) Sauf s'il en est prescrit autrement, le loyer maximal d'un logement locatif à la date du loyer initial de ce logement locatif correspond au montant suivant :

Idem

(a) the maximum rent under the *Residential Rent Regulation Act* if the initial rent date is before the day this section is proclaimed in force and if that Act applied to the rental unit; and

a) le loyer maximal prévu par la *Loi sur la réglementation des loyers d'habitation*, si la date du loyer initial est antérieure au jour où le présent article est proclamé en vigueur et que cette loi s'appliquait au logement locatif;

(b) the rent actually charged for that rental unit on the initial rent date otherwise.

b) le loyer réellement demandé pour ce logement locatif à la date du loyer initial, dans les autres cas.

Continuing tenant

(3) On the day this section is proclaimed in force, the maximum rent for a rental unit to which subsection 2 (3) of the *Residential Rent Regulation Act* applied immediately before its repeal shall be deemed to be the greater of,

(3) Le jour où le présent article est proclamé en vigueur, le loyer maximal d'un logement locatif auquel le paragraphe 2 (3) de la *Loi sur la réglementation des loyers d'habitation* s'appliquait immédiatement avant son abrogation est réputé le plus élevé des montants suivants :

Même locataire

(a) the amount of rent that may be charged under the agreement referred to in that subsection on the day this section is proclaimed in force; and

a) le loyer qui peut être demandé aux termes du bail visé à ce paragraphe le jour où le présent article est proclamé en vigueur;

(b) the maximum rent that would have applied if subsection 2 (3) of that Act had not applied.

b) le loyer maximal qui se serait appliqué si le paragraphe 2 (3) de cette loi ne s'était pas appliqué.

Rental unit vacant for some time

(4) Subsection (5) applies to a rental unit that,

(4) Le paragraphe (5) s'applique au logement locatif qui :

Logement locatif vacant pendant un certain temps

(a) was rented at any time on or after the 29th day of July, 1975;

a) a été loué le 29 juillet 1975 ou après cette date;

(b) after being so rented was not rented for a period of time; and

b) par la suite, a été vacant pendant un certain temps;

(c) then again becomes rented.

c) redevient loué.

Idem

(5) The maximum rent for a rental unit described in subsection (4) on the date the rental unit again becomes rented shall be the amount the landlord would have been entitled to charge if the unit had been rented during the period it was not rented and the landlord had given notice or notices of rent increase in the amount permitted under this Act, the *Residential Rent Regulation Act*, the *Residential Premises Rent Review Act*, 1975 (2nd Session) or Part XI of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980.

(5) Le loyer maximal d'un logement locatif visé au paragraphe (4) est, à la date à laquelle le logement locatif redevient loué, le montant que le locateur aurait eu le droit de demander si le logement avait été loué pendant la période où il était vacant et que le locateur avait donné l'avis ou les avis d'augmentation de loyer du montant permis par la présente loi, la *Loi sur la réglementation des loyers d'habitation*, la loi intitulée *The Residential Premises Rent Review Act*, 1975 (2nd Session) ou la partie XI de la loi intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980.

Idem

Rental unit exempt for some time

(6) Subsection (7) applies to a rental unit,

(6) Le paragraphe (7) s'applique au logement locatif qui satisfait aux conditions suivantes :

Logement locatif exempté pendant quelque temps

(a) that was subject to rent regulation under a predecessor of this Act at any time on or after the 29th day of July, 1975;

(b) that was exempt from rent regulation on the day before this section is proclaimed in force; and

(c) that becomes subject to this Act at any time on or after the day this section is proclaimed in force.

Idem

(7) The maximum rent for a rental unit described in subsection (6) on the date this Act first applies to it shall be deemed to be the rent actually charged for that rental unit on that date.

Idem

(8) Subsection (9) applies to a rental unit that became exempt from this Act after having been subject to it and that after being so exempt becomes subject to it again.

Idem

(9) The maximum rent for a rental unit described in subsection (8) on the date it becomes subject to this Act after having been exempt from it shall be deemed to be the rent actually charged for that rental unit on that date.

Maximum  
increase  
without  
application

**11.—**(1) No landlord shall increase the rent charged for a rental unit by more than the guideline unless,

(a) an order has been made in accordance with this Part; or

(b) the amount of the rent after the increase is applied is not higher than the maximum rent as of the date that the rent increase takes effect.

Idem

(2) The guideline shall not be applied to the capital components of the maximum rent.

Rent control  
guideline

**12.—**(1) The Minister shall determine the rent control guideline in effect for each calendar year as follows:

1. Determine the rent control index taking into account the weights and the three year moving averages of the operating cost categories as set out in the prescribed Table.

2. The part of the guideline allocated to operating costs is equal to 55 per cent of the percentage increase in the rent control index, rounded to the nearest 1/10th of 1 per cent.

3. The part of the guideline allocated to capital expenditures is equal to 2 per cent.

a) le 29 juillet 1975 ou après cette date, il était assujéti à la réglementation des loyers en vertu d'une loi que la présente loi remplace;

b) il était soustrait à la réglementation des loyers le jour avant celui où le présent article est proclamé en vigueur;

c) la présente loi s'y applique le jour où le présent article est proclamé en vigueur ou après ce jour.

(7) Le loyer maximal d'un logement locatif décrit au paragraphe (6) à la date où la présente loi s'y applique pour la première fois est réputé le loyer réellement demandé pour ce logement locatif à cette date.

Idem

(8) Le paragraphe (9) s'applique au logement locatif qui a été soustrait à l'application de la présente loi après y avoir été assujéti et qui, après avoir été ainsi soustrait, y est de nouveau assujéti.

Idem

(9) Le loyer maximal du logement locatif décrit au paragraphe (8) à la date où il est assujéti à la présente loi après avoir été soustrait à son application est réputé le loyer réellement demandé pour ce logement locatif à cette date.

Idem

**11** (1) Nul locateur ne peut augmenter le loyer demandé pour un logement locatif d'un pourcentage supérieur au taux légal, sauf si, selon le cas :

Augmentation  
maximale  
sans requête

a) une ordonnance a été rendue conformément à la présente partie;

b) le loyer demandé après que l'augmentation est effectuée ne dépasse pas le loyer maximal à la date à laquelle l'augmentation de loyer prend effet.

(2) Le taux légal ne doit pas être appliqué aux éléments d'immobilisations du loyer maximal.

Idem

**12** (1) Le ministre établit le taux légal en vigueur pour chaque année civile de la façon suivante :

Taux légal

1. Il détermine l'indice du contrôle des loyers en tenant compte de la pondération et de la moyenne mobile de trois ans des catégories de frais d'exploitation énoncées dans le barème prescrit.

2. La partie du taux légal se rapportant aux frais d'exploitation est égale à 55 pour cent du pourcentage d'augmentation de l'indice du contrôle des loyers, portée au dixième de pour cent le plus près.

3. La partie du taux légal se rapportant aux dépenses en immobilisations est égale à 2 pour cent.



4. The guideline is the sum of the part of the guideline allocated to operating costs and the part of the guideline allocated to capital expenditures.

Publication of guideline

(2) The Minister shall publish the rent control guideline for each year in *The Ontario Gazette* not later than the 31st day of August of the preceding year.

Guideline for 1992

(3) Despite subsection (2), the rent control guideline for all rental units for 1992 is the Residential Complex Cost Index for that year as published by the Minister under subsection 70 (2) of the *Residential Rent Regulation Act*.

#### APPLICATION FOR INCREASE ABOVE GUIDELINE

Application for increase above guideline

**13.—**(1) A landlord may apply to a Chief Rent Officer for an order increasing the maximum rent for any or all of the rental units in a residential complex by more than the guideline.

Grounds for application

(2) An application under this section may be based on any one or more of the grounds set out in sections 14 to 18.

Idem

(3) A rent officer shall not consider a matter set out in section 14, 15, 16, 17 or 18 if it is not specifically set out as a ground in the application.

When application made

(4) An application under this section shall be made at least ninety days before the effective date of the first intended rent increase referred to in the application.

Idem

(5) A rent officer shall not consider an application under this section if,

- (a) amounts have been ordered to be carried forward respecting all of the rental units in the residential complex in a previous order under section 21;
- (b) the landlord may file a notice of intent under section 22 respecting those amounts;
- (c) a notice of carry forward under that section would permit the landlord to increase the maximum rent for each rental unit by the sum of the guideline and 3 per cent; and
- (d) the effective date of the rent increase for any rental unit under the notice of carry forward would be within the

4. Le taux légal est la somme de la partie du taux légal se rapportant aux frais d'exploitation et de la partie du taux légal se rapportant aux dépenses en immobilisations.

Publication du taux légal

(2) Le ministre publie le taux légal pour chaque année dans la *Gazette de l'Ontario* au plus tard le 31 août de l'année précédente.

Taux légal pour 1992

(3) Malgré le paragraphe (2), le taux légal pour tous les logements locatifs pour 1992 correspond à l'indice des frais des ensembles d'habitation pour cette année, tel qu'il est publié par le ministre aux termes du paragraphe 70 (2) de la *Loi sur la réglementation des loyers d'habitation*.

#### REQUÊTE EN VUE D'OBTENIR UNE AUGMENTATION SUPÉRIEURE AU TAUX LÉGAL

**13** (1) Le locateur peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance augmentant d'un pourcentage supérieur au taux légal le loyer maximal pour tout ou partie des logements locatifs d'un ensemble d'habitation.

Requête en vue d'obtenir une augmentation supérieure au taux légal

(2) Une requête présentée en vertu du présent article peut être fondée sur un ou plusieurs des motifs énoncés aux articles 14 à 18.

Motifs de la requête

(3) L'agent des loyers ne peut pas tenir compte d'une question énoncée à l'article 14, 15, 16, 17 ou 18 si elle n'est pas expressément invoquée comme motif dans la requête.

Idem

(4) Une requête prévue au présent article est présentée au moins quatre-vingt-dix jours avant la date d'entrée en vigueur de la première augmentation de loyer proposée qui est mentionnée dans la requête.

Délai de présentation de la requête

(5) L'agent des loyers ne peut pas tenir compte d'une requête présentée en vertu du présent article si les conditions suivantes sont réunies :

Idem

- a) il a été prévu, dans une ordonnance antérieure visée à l'article 21, que des montants soient reportés à l'égard de tous les logements locatifs de l'ensemble d'habitation;
- b) le locateur peut déposer un avis d'intention aux termes de l'article 22 à l'égard de ces montants;
- c) un avis de report visé à cet article permettrait au locateur d'augmenter le loyer maximal de chaque logement locatif d'un pourcentage qui est égal à la somme du taux légal plus 3 pour cent;
- d) la date d'entrée en vigueur de l'augmentation de loyer de tout logement locatif visé par l'avis de report tombe-



twelve-month period following the first effective date set out in the application under this section.

Idem

(6) No application shall be made under this section if the effective date for a rent increase for any rental unit in the application would be less than twelve months after the last rent increase for that rental unit.

All units considered

(7) In an application under this section, the rent officer shall determine the maximum rent and the date the maximum rent takes effect for all of the rental units during the twelve-month period following the effective date of the first rent increase applied for, even if those units are not the subject of tenancy agreements at the time of the application.

Matters to be considered

(8) Before making an order on an application under this section, the rent officer shall consider any one or more of the following:

1. Whether the previous maximum rent should be reduced because of an inadequate standard of maintenance or repair of the residential complex or of a rental unit in it.
2. Whether the previous maximum rent should be reduced because of a discontinuance or reduction in the services or facilities provided in respect of the residential complex or a rental unit in it.
3. Whether the amount of the increase should be decreased or the maximum rent reduced because of an extraordinary decrease in operating costs for municipal taxes, hydro, water or heating for the whole residential complex.

Consider increase

(9) If the rent officer decides that the amount of the increase should be decreased or the maximum rent reduced because of an extraordinary decrease in operating costs, the rent officer shall also consider any evidence provided by the landlord concerning an extraordinary increase in operating costs for municipal taxes, hydro, water or heating for the whole residential complex.

Failure to file information

(10) A rent officer shall not make an order that increases the maximum rent for a rental unit in a residential complex if,

- (a) the statement of rent information for the residential complex under section 104 has not been filed; or

rait dans la période de douze mois suivant la première date d'entrée en vigueur énoncée dans la requête présentée en vertu du présent article.

Idem

(6) Aucune requête ne doit être présentée en vertu du présent article si la date de prise d'effet d'une augmentation de loyer d'un logement locatif dans la requête tombe moins de douze mois après la dernière augmentation de loyer pour ce logement locatif.

Prise en considération de tous les logements

(7) Dans le cadre d'une requête présentée en vertu du présent article, l'agent des loyers fixe le loyer maximal et la date à laquelle il prend effet pour tous les logements locatifs pendant la période de douze mois qui suit la date de prise d'effet de la première augmentation de loyer qui fait l'objet de la requête, même si ces logements ne font pas l'objet de baux au moment de la requête.

Questions dont il doit être tenu compte

(8) Avant de rendre une ordonnance par suite d'une requête présentée en vertu du présent article, l'agent des loyers tient compte d'une ou de plusieurs des questions suivantes :

1. Si le loyer maximal précédent devrait être réduit en raison d'un niveau d'entretien ou de réparation insuffisant de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve.
2. Si le loyer maximal précédent devrait être réduit en raison d'une interruption ou d'une réduction des services ou installations fournis à l'égard de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve.
3. Si le montant de l'augmentation ou le loyer maximal devrait être réduit en raison d'une diminution extraordinaire des frais d'exploitation de tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.

Prise en considération de l'augmentation

(9) S'il décide que le montant de l'augmentation ou le loyer maximal devrait être réduit en raison d'une diminution extraordinaire des frais d'exploitation, l'agent des loyers tient compte également de toute preuve fournie par le locateur concernant une augmentation extraordinaire des frais d'exploitation de tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.

Défaut de déclarer des renseignements

(10) L'agent des loyers ne peut pas rendre d'ordonnance qui augmente le loyer maximal d'un logement locatif d'un ensemble d'habitation si, selon le cas :

- a) la déclaration de renseignements sur les loyers de l'ensemble d'habitation visée à l'article 104 n'a pas été déposée;

- (b) the landlord has been required to file information under section 107 or 108 and has not done so.

Extraordi-  
nary oper-  
ating costs

**14.**—(1) The landlord may base an application on an extraordinary increase in operating costs for municipal taxes, hydro, water or heating for the whole residential complex.

Where  
increase is  
extraordinary

(2) An increase in operating costs for municipal taxes, hydro, water or heating for the whole residential complex is extraordinary if the increase, expressed as a percentage, is at least 50 per cent more than the percentage set out in the corresponding operating cost category recognized in the Table referred to in subsection 12 (1) for that item.

Taxes not  
considered

(3) The rent officer shall not consider any portion of an increase in municipal taxes that results from non-compliance with a work order.

Eligible  
capital  
expenditure

**15.**—(1) The landlord may base an application on eligible capital expenditures that the landlord has incurred respecting the residential complex or one or more rental units in it if the work was completed on or after the 6th day of June, 1991.

When capital  
expenditure  
is eligible

(2) Subject to subsection (3), a capital expenditure is eligible if,

- (a) it is necessary to protect or restore the physical integrity of the residential complex or a rental unit in it;
- (b) it is necessary to comply with municipal or provincial standards to protect the health or safety of persons or to protect the environment;
- (c) it is necessary to maintain the provision of a plumbing, heating, mechanical, electrical, ventilation or air-conditioning system;
- (d) it provides access for persons with disabilities; or
- (e) it increases energy or water conservation.

When capital  
expenditure  
not eligible

(3) A capital expenditure is not eligible if,

- (a) it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it; or

- b) le locateur devait déclarer des renseignements aux termes de l'article 107 ou 108 et ne l'a pas fait.

**14** (1) Le locateur peut fonder sa requête sur une augmentation extraordinaire des frais d'exploitation pour tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.

Frais d'ex-  
ploitation  
extraordina-  
res

(2) Une augmentation des frais d'exploitation de tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage est extraordinaire si cette augmentation, exprimée sous forme de pourcentage, est supérieure d'au moins 50 pour cent au pourcentage énoncé dans la catégorie de frais d'exploitation correspondante reconnue pour cet élément dans le barème mentionné au paragraphe 12 (1).

Augmentation  
extraordinaire

(3) L'agent des loyers ne peut tenir compte d'aucune partie d'une augmentation des impôts municipaux qui résulte du défaut de se conformer à un arrêté, un ordre ou une ordonnance d'exécution de travaux.

Impôts exclus

**15** (1) Le locateur peut fonder sa requête sur des dépenses en immobilisations admissibles qu'il a engagées à l'égard de l'ensemble d'habitation ou d'un ou de plusieurs logements locatifs qui s'y trouvent si les travaux ont été achevés le 6 juin 1991 ou après cette date.

Dépense en  
immobilisa-  
tions admissi-  
ble

(2) Sous réserve du paragraphe (3), une dépense en immobilisations est admissible si, selon le cas :

Dépense en  
immobilisa-  
tions admissi-  
ble

- a) elle est nécessaire pour protéger ou rétablir l'intégrité physique de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve;
- b) elle est nécessaire pour observer les normes municipales ou provinciales établies afin de protéger la santé ou la sécurité des personnes, ou afin de protéger l'environnement;
- c) elle est nécessaire pour continuer à fournir un système de chauffage, une installation mécanique ou électrique, ou une installation de plomberie, de ventilation ou de climatisation;
- d) elle a pour objet de permettre l'accès aux personnes qui ont un handicap;
- e) elle a pour objet d'augmenter les économies d'énergie ou d'eau.

(3) Une dépense en immobilisations n'est pas admissible si, selon le cas :

- a) elle est devenue nécessaire en raison de négligence dans l'entretien de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve;

Dépense en  
immobilisa-  
tions non  
admissible



- (b) a system or thing that is replaced does not require replacement.

If advance  
determina-  
tion

(4) If there is an advance determination under section 29 respecting a capital expenditure to which this section applies and the work done or thing purchased is substantially the same as that anticipated in the advance determination, the rent officer shall consider any difference between the actual amount expended and the amount approved in the advance determination according to the prescribed rules.

Transition,  
capital  
expenditure

**16.**—(1) The landlord may base an application on a capital expenditure that the landlord has incurred respecting the residential complex or one or more rental units in it if the work was completed on or after the 1st day of January, 1990 and before the 6th day of June, 1991 and if,

- (a) the expenditure was not claimed in an application made under section 73 of the *Residential Rent Regulation Act*; or
- (b) the expenditure was claimed in an application made under the *Residential Rent Regulation Act* but no relief was available in respect of the capital expenditure because that Act no longer permitted such relief.

Idem

(2) This section does not apply in respect of a capital expenditure claimed on an application which resulted in an order in which partial relief for capital expenditures was granted under the *Residential Rent Regulation Act* because of subsection 82 (3.1) or 99.15 (6) of that Act.

Restriction

(3) An application under this section must be made on or before the day that is six months after the day this section is proclaimed in force.

Exception

(4) The rent officer shall not consider a capital expenditure under this section if it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it.

Capital  
expenditure  
re rental  
unit, on  
consent

**17.**—(1) The landlord may base an application on a specified capital expenditure that the landlord has incurred respecting a rental unit if the tenant of the rental unit consents in the prescribed form to the application in respect of this ground after being informed in writing by the landlord of the particulars applied for.

- (b) un système ou une chose qui est remplacé n'a pas besoin de l'être.

(4) Si une décision anticipée est rendue aux termes de l'article 29 à l'égard d'une dépense en immobilisations à laquelle s'applique le présent article et que les travaux effectués ou la chose achetée sont sensiblement les mêmes que ceux prévus dans la décision anticipée, l'agent des loyers tient compte de toute différence entre le montant réellement dépensé et le montant approuvé dans la décision anticipée conformément aux règles prescrites.

Décision anti-  
cipée

**16** (1) Le locateur peut fonder sa requête sur une dépense en immobilisations qu'il a engagée à l'égard de l'ensemble d'habitation ou d'un ou de plusieurs logements locatifs qui s'y trouvent si les travaux ont été achevés le 1<sup>er</sup> janvier 1990 ou après cette date mais avant le 6 juin 1991 et que, selon le cas :

Disposition  
transitoire  
concernant  
les dépenses  
en immobili-  
sations

- a) la dépense n'a pas été déclarée dans une demande présentée en vertu de l'article 73 de la *Loi sur la réglementation des loyers d'habitation*;
- b) la dépense a été déclarée dans une demande présentée en vertu de la *Loi sur la réglementation des loyers d'habitation* mais aucun redressement n'était prévu à l'égard de la dépense en immobilisations parce que cette loi ne permettait plus un tel redressement.

(2) Le présent article ne s'applique pas à une dépense en immobilisations déclarée dans une demande ou une requête qui a mené à un arrêté, un ordre ou une ordonnance dans lequel un redressement partiel pour des dépenses en immobilisations a été accordé en vertu de la *Loi sur la réglementation des loyers d'habitation* en raison du paragraphe 82 (3.1) ou 99.15 (6) de cette loi.

Idem

(3) La requête prévue au présent article doit être présentée le jour qui tombe six mois après le jour où le présent article est proclamé en vigueur, ou avant ce jour.

Restriction

(4) L'agent des loyers ne peut pas tenir compte d'une dépense en immobilisations visée au présent article si elle est devenue nécessaire en raison de négligence dans l'entretien de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve.

Exception

**17** (1) Le locateur peut fonder sa requête sur une dépense en immobilisations précisée qu'il a engagée à l'égard d'un logement locatif si le locataire du logement locatif consent, selon la formule prescrite, à la requête à l'égard de ce motif, après avoir été informé par écrit par le locateur des éléments faisant l'objet de la requête.

Dépense en  
immobilisa-  
tions relative  
à un loge-  
ment locatif,  
sur consente-  
ment



If advance  
determina-  
tion

(2) If there is an advance determination under section 29 respecting a capital expenditure to which this section applies and the work done or thing purchased is substantially the same as that anticipated in the advance determination, the rent officer shall consider any difference between the actual amount expended and the amount approved in the advance determination according to the prescribed rules.

Idem

(3) If there is a finding in the advance determination that the tenant of the rental unit consented to the application for the advance determination, consent of the tenant to the application under this section is not required for the capital expenditures that are the subject of the advance determination even if there is a different tenant at the time of the application under this section.

New or  
additional  
services

**18.—**(1) The landlord may base an application on the cost of new or additional services for a rental unit that the landlord is providing if the tenant of the rental unit consents in the prescribed form to the application in respect of this ground after being informed in writing by the landlord of the particulars applied for.

If advance  
determina-  
tion

(2) If there is an advance determination under section 29 respecting a service to which this section applies and that service is substantially the same as that anticipated in the advance determination, the rent officer shall consider any difference between the actual amount expended and the amount approved in the advance determination according to the prescribed rules.

Idem

(3) If there is a finding in the advance determination that the tenant of the rental unit consented to the application for the advance determination, consent of the tenant to the application under this section is not required for the services that are the subject of the advance determination even if there is a different tenant at the time of the application under this section.

Rent charge-  
able before  
order

**19.** If an application is made under section 13 and the landlord has given a notice of intended rent increase as required, until an order setting the maximum rent for the rental unit takes effect, the landlord shall not charge or collect a rent that exceeds the lesser of,

- (a) the amount that would be charged if the intended rent increase specified in the notice were applied; and
- (b) the amount that would be charged if the maximum rent were increased by

(2) Si une décision anticipée est rendue aux termes de l'article 29 à l'égard d'une dépense en immobilisations à laquelle s'applique le présent article et que les travaux effectués ou la chose achetée sont sensiblement les mêmes que ceux prévus dans la décision anticipée, l'agent des loyers tient compte de toute différence entre le montant réellement dépensé et le montant approuvé dans la décision anticipée conformément aux règles prescrites.

Décision  
anticipée

(3) S'il est conclu dans la décision anticipée que le locataire du logement locatif a consenti à la requête en vue d'obtenir une décision anticipée, le consentement du locataire à l'égard de la requête visée au présent article n'est pas exigé en ce qui concerne les dépenses en immobilisations qui font l'objet de la décision anticipée, même si le locataire n'est plus le même au moment où la requête est présentée en vertu du présent article.

Idem

**18** (1) Le locateur peut fonder sa requête sur le coût de nouveaux services ou de services supplémentaires qu'il fournit pour un logement locatif si le locataire du logement locatif consent, selon la formule prescrite, à la requête à l'égard de ce motif, après avoir été informé par écrit par le locateur des éléments faisant l'objet de la requête.

Nouveaux  
services ou  
services sup-  
plémentaires

(2) Si une décision anticipée est rendue aux termes de l'article 29 à l'égard d'un service auquel s'applique le présent article et que ce service est sensiblement le même que celui prévu dans la décision anticipée, l'agent des loyers tient compte de toute différence entre le montant réellement dépensé et le montant approuvé dans la décision anticipée conformément aux règles prescrites.

Décision anti-  
cipée

(3) S'il est conclu dans la décision anticipée que le locataire du logement locatif a consenti à la requête en vue d'obtenir une décision anticipée, le consentement du locataire à l'égard de la requête visée au présent article n'est pas exigé en ce qui concerne les services qui font l'objet de la décision anticipée, même si le locataire n'est plus le même au moment où la requête est présentée en vertu du présent article.

Idem

**19** Si une requête est présentée en vertu de l'article 13 et que le locateur a donné un avis d'augmentation de loyer proposée tel qu'il est tenu de le faire, le locateur ne doit pas demander ni percevoir, jusqu'à ce qu'entre en vigueur une ordonnance fixant le loyer maximal du logement locatif, de loyer qui dépasse le moindre des montants suivants :

Loyer pou-  
vant être  
demandé  
avant l'ordon-  
nance

- a) le montant qui serait demandé si l'augmentation de loyer proposée qui est précisée dans l'avis avait été effectuée;
- b) le montant qui serait demandé si le loyer maximal était augmenté du mon-

the amount obtained by applying the guideline to that part of the maximum rent that excludes all capital components.

## Findings

**20.**—(1) Before making an order on an application under section 13, the rent officer shall make findings in accordance with the prescribed rules,

- (a) taking into account the matters the rent officer considers under paragraphs 1 and 2 of subsection 13 (8), to determine the previous maximum rent for each rental unit;
- (b) to determine what guideline is to be applied to that previous maximum rent and what amount is to be obtained by applying that guideline;
- (c) taking into account the matters the rent officer considers under paragraph 3 of subsection 13 (8), subsection 13 (9) and section 14, to determine whether an increase in the amount determined under clause (b) is justified and in what amount and whether a decrease of that increase or a reduction of the previous maximum rent is justified and in what amount;
- (d) for any other ground on which the landlord bases the application, to determine whether an increase of the maximum rent is justified and in what amount;
- (e) to determine the amount to be carried forward from a previous order under subsection 21 (8) if the effective date of the first rent increase under the previous order is twelve months before the effective date of the first intended rent increase under the application;
- (f) to determine the amount to be carried forward from a previous order under subsection 21 (8) if,
  - (i) the effective date of the first rent increase under the previous order is twenty-four months before the effective date of the first intended rent increase under the application, and
  - (ii) an amount has been carried forward from the previous order in an order encompassing findings

tant obtenu en appliquant le taux légal à la partie du loyer maximal qui exclut tous les éléments d'immobilisations.

## Conclusions

**20** (1) Avant de rendre une ordonnance par suite d'une requête présentée en vertu de l'article 13, l'agent des loyers émet des conclusions, conformément aux règles prescrites :

- a) en prenant en considération les questions dont l'agent des loyers tient compte aux termes des dispositions 1 et 2 du paragraphe 13 (8), pour déterminer le loyer maximal précédent de chaque logement locatif;
- b) pour déterminer quel taux légal doit être appliqué à ce loyer maximal précédent et quel montant doit être obtenu en appliquant ce taux légal;
- c) en prenant en considération les questions dont l'agent des loyers tient compte aux termes de la disposition 3 du paragraphe 13 (8), du paragraphe 13 (9) et de l'article 14, pour décider si une augmentation du montant déterminé aux termes de l'alinéa b) est justifiée et en fixer le montant et si une diminution de cette augmentation ou une réduction du loyer maximal précédent est justifiée et en fixer le montant;
- d) à l'égard de tout autre motif sur lequel le locateur fonde sa requête, pour décider si une augmentation du loyer maximal est justifiée et en fixer le montant;
- e) pour déterminer le montant à reporter d'une ordonnance antérieure visée au paragraphe 21 (8) si la date de prise d'effet de la première augmentation de loyer prévue dans l'ordonnance antérieure tombe douze mois avant la date de prise d'effet de la première augmentation de loyer proposée dans la requête;
- f) pour déterminer le montant à reporter d'une ordonnance antérieure visée au paragraphe 21 (8) si :
  - (i) d'une part, la date de prise d'effet de la première augmentation de loyer prévue dans l'ordonnance antérieure tombe vingt-quatre mois avant la date de prise d'effet de la première augmentation de loyer proposée dans la requête,
  - (ii) d'autre part, un montant a été reporté de l'ordonnance antérieure dans une ordonnance contenant des conclusions émises en



under this section or in a notice of carry forward;

vertu du présent article ou dans un avis de report;

- (g) to determine the new maximum rent for each rental unit and the date on which it takes effect; and
- (h) if part of the new maximum rent represents amounts respecting capital expenditures, to determine the total capital component of the maximum rent for each capital expenditure and the date on which the capital component respecting the expenditure is to be deducted from the maximum rent.

- g) pour déterminer le nouveau loyer maximal de chaque logement locatif et la date à laquelle il prend effet;
- h) si une partie du nouveau loyer maximal représente des montants relatifs à des dépenses en immobilisations, pour déterminer l'élément d'immobilisations total du loyer maximal pour chaque dépense en immobilisations et la date à laquelle l'élément d'immobilisations relatif à la dépense doit être déduit du loyer maximal.

## Guideline

(2) For the purposes of clause (1) (b), the guideline to be applied to the rental units is the guideline as of the first intended rent increase in the application.

(2) Pour l'application de l'alinéa (1) b), le taux légal applicable aux logements locatifs est le taux légal à la date de la première augmentation de loyer proposée dans la requête. Taux légal

## Reduction of guideline

(3) The part of the guideline allocated to capital expenditures shall not be included in determining the maximum rents for any of the rental units in the residential complex if,

(3) Il n'est pas tenu compte de la partie du taux légal se rapportant aux dépenses en immobilisations pour déterminer le loyer maximal des logements locatifs de l'ensemble d'habitation si, selon le cas : Réduction du taux légal

- (a) a capital expenditure is claimed and allowed for the residential complex or a rental unit in it and that capital expenditure is claimed under section 15 or 16; or
- (b) an amount to be carried forward is allowed for the residential complex or a rental unit in it and that amount relates to a capital expenditure originally claimed under section 15 or 16.

- a) une dépense en immobilisations est déclarée et reconnue à l'égard de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve et cette dépense en immobilisations est déclarée aux termes de l'article 15 ou 16;
- b) un montant à reporter est reconnu à l'égard de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve et ce montant se rapporte à une dépense en immobilisations initialement déclarée aux termes de l'article 15 ou 16.

## Idem

(4) The part of the guideline allocated to capital expenditures shall not be included in determining the maximum rent for a rental unit in the residential complex if subsection (3) does not apply and if,

(4) Il n'est pas tenu compte de la partie du taux légal se rapportant aux dépenses en immobilisations pour déterminer le loyer maximal d'un logement locatif de l'ensemble d'habitation si le paragraphe (3) ne s'applique pas et que, selon le cas : Idem

- (a) a capital expenditure is claimed and allowed for the rental unit and that capital expenditure is claimed under section 17; or
- (b) an amount to be carried forward is allowed for the rental unit and that amount relates to a capital expenditure originally claimed under section 17.

- a) une dépense en immobilisations est déclarée et reconnue à l'égard du logement locatif et cette dépense en immobilisations est déclarée aux termes de l'article 17;
- b) un montant à reporter est reconnu à l'égard du logement locatif et ce montant se rapporte à une dépense en immobilisations initialement déclarée aux termes de l'article 17.

## Capital expenditures

(5) In determining the amount of an increase that is justified for a capital expenditure, the rent officer shall make findings with respect to the following matters and shall calculate the allowance for the capital expenditure according to the prescribed rules:

(5) Lorsqu'il détermine le montant de l'augmentation qui est justifiée à l'égard d'une dépense en immobilisations, l'agent des loyers émet des conclusions à l'égard des questions suivantes et calcule le montant reconnu de la dépense en immobilisations conformément aux règles prescrites :

Dépenses en immobilisations



1. The amount of the capital expenditure.
2. Interest on the expenditure at the prescribed rates, regardless of whether the expenditure is financed by borrowing, by the landlord's own funds or by both.
3. The value of the landlord's own labour, if any, in carrying out the work involved in the capital expenditure.
4. The prescribed useful life of the work done or the thing purchased.

Reduction  
for capital  
expenditure  
previously  
allowed

(6) If a rent officer intends to permit an allowance for a capital expenditure for the replacement of an item that was allowed as a capital expenditure in a previous order made under a predecessor of this Act and if the capital expenditure was allowed in a previous order with a first effective date that is on or after the 1st day of August, 1985, the rent officer shall reduce the allowance for the capital expenditure by the allowance for the capital expenditure in the previous order.

Idem

(7) If a rent officer intends to permit an allowance for a capital expenditure for the replacement of an item that was allowed as a capital expenditure in a previous order made under this Act and if the period for the useful life set out in the previous order has not expired, the rent officer shall reduce the previous maximum rent by the capital component for the capital expenditure allowed in the previous order.

Capital  
component

(8) The rent officer shall determine the capital component of the maximum rent for each capital expenditure for which an amount is included in the maximum rent as follows:

1. If there is a finding in respect of a capital expenditure under clause (1) (d), the capital component for that capital expenditure is the prescribed part of the allowance respecting the capital expenditure.
2. If there is a finding in respect of the carry forward of an allowance for a capital expenditure under clause (1) (e) or (f), the capital component for that capital expenditure is the sum of,

1. Le montant de la dépense en immobilisations.
2. L'intérêt sur la dépense aux taux prescrits, qu'elle ait été financée au moyen d'un emprunt ou au moyen des fonds mêmes du locateur, ou au moyen d'une combinaison des deux.
3. La valeur du travail du locateur, le cas échéant, dans l'exécution des travaux relatifs à la dépense en immobilisations.
4. La vie utile prescrite des travaux effectués ou de la chose achetée.

(6) Si un agent des loyers a l'intention de reconnaître un montant à l'égard d'une dépense en immobilisations pour le remplacement d'un élément reconnu à titre de dépense en immobilisations dans un arrêté pris, un ordre donné ou une ordonnance rendue antérieurement en vertu d'une loi que la présente loi remplace, et si la dépense en immobilisations a été reconnue dans un arrêté, un ordre ou une ordonnance antérieurs entrant en vigueur pour la première fois le 1<sup>er</sup> août 1985 ou après cette date, l'agent des loyers soustrait du montant à reconnaître à l'égard de la dépense en immobilisations le montant reconnu à l'égard de la dépense en immobilisations dans l'arrêté, l'ordre ou l'ordonnance antérieurs.

Réduction  
pour les  
dépenses en  
immobilisa-  
tions recon-  
nues  
antérieure-  
ment

Idem

(7) Si un agent des loyers a l'intention de reconnaître un montant à l'égard d'une dépense en immobilisations pour le remplacement d'un élément reconnu à titre de dépense en immobilisations dans une ordonnance rendue antérieurement en vertu de la présente loi, et si la vie utile énoncée dans l'ordonnance antérieure n'a pas pris fin, l'agent des loyers réduit le loyer maximal précédent de l'élément d'immobilisations à l'égard de la dépense en immobilisations reconnue dans l'ordonnance antérieure.

(8) L'agent des loyers détermine de la façon suivante l'élément d'immobilisations du loyer maximal pour chaque dépense en immobilisations pour laquelle un montant est inclus dans le loyer maximal :

Élément  
d'immobilisa-  
tions

1. Si une conclusion concernant une dépense en immobilisations est émise aux termes de l'alinéa (1) d), l'élément d'immobilisations à l'égard de cette dépense en immobilisations est la partie prescrite du montant reconnu à l'égard de la dépense en immobilisations.
2. Si une conclusion concernant le report d'un montant reconnu à l'égard d'une dépense en immobilisations est émise aux termes de l'alinéa (1) e) ou f), l'élément d'immobilisations à l'égard

- i. the capital component for that capital expenditure from the most recent order or notice of carry forward referring to that capital expenditure, and
- ii. the prescribed part of the allowance respecting the carry forward.

3. The capital component for a capital expenditure is its capital component from the most recent finding under clause (1) (h) or determination under clause 22 (3) (d) if,

- i. there was a previous finding or determination in respect of the capital component, and
- ii. there is no new finding in respect of the capital component referring to the capital expenditure to which the capital component relates.

Transitional

(9) Despite subsection (2), if the date of the first intended rent increase in the application is before the 1st day of January, 1993, the guideline to be applied to the rental units for the purposes of clause (1) (b) is the guideline in effect for the 1993 calendar year.

Order

**21.—**(1) On an application under section 13, a rent officer shall order the amount of maximum rent for each rental unit in the residential complex and the date on which that maximum rent takes effect.

Cap on maximum rent

(2) The rent officer shall not order a maximum rent in an amount that increases the previous maximum rent by more than the amount obtained by applying the guideline plus 3 per cent to that part of the maximum rent that excludes all capital components.

Decrease permitted

(3) The rent officer may order maximum rent in an amount that is less than the previous maximum rent.

No increase above application

(4) The rent officer shall not order a maximum rent for a rental unit in an amount that is greater than that proposed for the rental unit on a landlord's application.

de cette dépense en immobilisations est la somme de ce qui suit :

- i. l'élément d'immobilisations à l'égard de cette dépense en immobilisations depuis le plus récent arrêté, ordre ou avis de report ou la plus récente ordonnance qui ont trait à cette dépense en immobilisations,
- ii. la partie prescrite du montant reconnu à l'égard du report.

3. L'élément d'immobilisations à l'égard d'une dépense en immobilisations est l'élément d'immobilisations de celle-ci depuis la plus récente conclusion aux termes de l'alinéa (1) h) ou la plus récente décision aux termes de l'alinéa 22 (3) d) si :

- i. d'une part, il y avait une conclusion ou décision antérieure concernant l'élément d'immobilisations,
- ii. d'autre part, il n'y a aucune nouvelle conclusion concernant l'élément d'immobilisations qui a trait à la dépense en immobilisations à laquelle se rapporte l'élément d'immobilisations.

(9) Malgré le paragraphe (2), si la date de la première augmentation de loyer proposée dans la requête est antérieure au 1<sup>er</sup> janvier 1993, le taux légal applicable aux logements locatifs pour l'application de l'alinéa (1) b) est le taux légal en vigueur pour l'année civile 1993.

Disposition transitoire

**21** (1) Par suite d'une requête présentée en vertu de l'article 13, l'agent des loyers fixe, par voie d'ordonnance, le loyer maximal de chaque logement locatif de l'ensemble d'habitation et la date à laquelle le loyer maximal prend effet.

Ordonnance

(2) L'agent des loyers ne peut pas fixer, par voie d'ordonnance, de loyer maximal qui fasse augmenter le loyer maximal précédent d'un montant supérieur à celui obtenu en appliquant le taux légal plus 3 pour cent à la partie du loyer maximal qui exclut tous les éléments d'immobilisations.

Loyer maximal plafonné

(3) L'agent des loyers peut fixer, par voie d'ordonnance, un loyer maximal inférieur au loyer maximal précédent.

Réduction permise

(4) L'agent des loyers ne peut pas fixer, par voie d'ordonnance, de loyer maximal à l'égard d'un logement locatif qui soit supérieur à celui proposé pour le logement locatif dans la requête du locateur.

Augmentation supérieure celle proposée interdite



Capital  
component

↓  
(5) The rent officer shall set out in the order,

(a) for the residential complex, the allowance for each capital expenditure found on the application and the total amount of all new capital components and all capital components increased by the order for all rental units for each capital expenditure and the useful life of the work done or the thing purchased;

(b) for each rental unit, the total amount of all capital components included in the maximum rent.

Idem

(6) The findings under clause 20 (1) (h) shall be deemed to form part of the order even if they are not set out in the order or the reasons.

Idem

(7) If a party to an application requests a copy of findings under clause 20 (1) (h), the Chief Rent Officer shall provide a copy of those findings to the party without charge, despite section 132. ▲

Carry  
forward

(8) If the rent officer's findings respecting a rental unit would justify an increase of more than the amount allowed under subsection (2) or (4), the rent officer may provide in the order,

(a) that the amount in respect of capital expenditures which has not been previously carried forward may be carried forward for a period of twelve months or twenty-four months from the effective date of the first rent increase in the residential complex under the order; and

(b) that the remaining amount in respect of capital expenditures which has been previously carried forward may be carried forward for the balance of the period established for that amount in the order that first provided for the carry forward.

Order for  
payment of  
money

(9) The rent officer may order the landlord or tenant to pay to the other any sum of money that is owed to the other as a result of the rent officer's order.

Payment of  
order by  
instalments

(10) The rent officer may provide in an order made three months or more after the effective date of the first rent increase in a residential complex that if a tenant owes any sum of money to the landlord as a result of

↓  
(5) L'agent des loyers fixe dans l'ordonnance :

Elément  
d'immobi-  
lisations

a) à l'égard de l'ensemble d'habitation, le montant reconnu pour chaque dépense en immobilisations figurant dans la requête et le montant total de tous les nouveaux éléments d'immobilisations et de tous les éléments d'immobilisations augmentés par l'ordonnance à l'égard de tous les logements locatifs pour chaque dépense en immobilisations et la vie utile des travaux effectués ou de la chose achetée;

b) à l'égard de chaque logement locatif, le montant total de tous les éléments d'immobilisations inclus dans le loyer maximal.

Idem

(6) Les conclusions émises aux termes de l'alinéa 20 (1) h) sont réputées faire partie de l'ordonnance même si elles ne sont pas énoncées dans celle-ci ou dans les motifs.

Idem

(7) Si une partie à une requête demande une copie des conclusions émises aux termes de l'alinéa 20 (1) h), l'agent principal des loyers lui fournit une copie de ces conclusions sans demander de droits, malgré l'article 132. ▲

(8) Si les conclusions de l'agent des loyers au sujet d'un logement locatif justifiaient une augmentation supérieure au montant reconnu aux termes du paragraphe (2) ou (4), l'agent des loyers peut prévoir dans l'ordonnance que :

Report

a) le montant à l'égard des dépenses en immobilisations qui n'a pas été reporté antérieurement peut être reporté d'une période de douze mois ou de vingt-quatre mois à partir de la date de prise d'effet de la première augmentation de loyer touchant l'ensemble d'habitation prévue dans l'ordonnance;

b) le montant restant à l'égard des dépenses en immobilisations qui a été reporté antérieurement peut être reporté pour le reste de la période établie à l'égard de ce montant dans l'ordonnance qui a prévu le report pour la première fois.

Ordonnance  
de paiement

(9) L'agent des loyers peut ordonner que le locateur ou le locataire verse à l'autre toute somme d'argent qu'il lui doit par suite de l'ordonnance rendue par l'agent des loyers.

Paiement fait  
par verse-  
ments

(10) Dans une ordonnance rendue trois mois ou plus après la date de prise d'effet de la première augmentation de loyer touchant l'ensemble d'habitation, l'agent des loyers peut prévoir que si le locataire doit une



the order, the tenant may pay the landlord the amount owing either in twelve equal monthly instalments or in a lump sum.

somme d'argent au locateur par suite de l'ordonnance, le locataire peut payer la somme due au locateur, soit en douze versements mensuels d'un montant égal, soit en une somme globale.

Idem

(11) If the order permits the tenant to pay the amount owing by instalments, the tenant may do so even if the tenancy is terminated.

(11) Si l'ordonnance permet au locataire de payer le montant dû par versements, le locataire peut le faire même si la location est terminée.

Idem

Adjust  
previous  
order

(12) When making an order under this section, the rent officer shall, in the prescribed manner, adjust the maximum rent for a rental unit set out in a previous order under this Act or the *Residential Rent Regulation Act* if,

(12) Lorsqu'il rend une ordonnance en vertu du présent article, l'agent des loyers rajuste, de la manière prescrite, le loyer maximal d'un logement locatif énoncé dans un arrêté, un ordre ou une ordonnance pris, donné ou rendue antérieurement en vertu de la présente loi ou de la *Loi sur la réglementation des loyers d'habitation* si les conditions suivantes sont réunies :

Rajustement  
concernant un  
arrêté, un  
ordre ou une  
ordonnance  
antérieur

- (a) the order under this section includes a finding of a discontinuance or reduction in the services or facilities provided in respect of a rental unit;
- (b) the first effective date of a rent increase under the previous order was before the day that the discontinuance or reduction is found to have first occurred with respect to that rental unit; and
- (c) the maximum rent for the rental unit was determined in the previous order to come into effect after the day that the discontinuance or reduction is found to have first occurred with respect to that rental unit.

- a) l'ordonnance rendue en vertu du présent article comprend une conclusion concernant une interruption ou une réduction des services ou installations fournis à l'égard d'un logement locatif;
- b) la première date de prise d'effet d'une augmentation de loyer aux termes d'un arrêté, d'un ordre ou d'une ordonnance antérieur était antérieure au jour où, d'après la conclusion, l'interruption ou la réduction s'est produite pour la première fois à l'égard de ce logement locatif;
- c) il avait été énoncé dans l'arrêté, l'ordre ou l'ordonnance antérieur que le loyer maximal du logement locatif prendrait effet après le jour où, d'après la conclusion, l'interruption ou la réduction s'est produite pour la première fois à l'égard de ce logement locatif.

Adjust  
previous  
notice

(13) When making an order under this section, the rent officer shall, in the prescribed manner, adjust the maximum rent for a rental unit as determined in a previous notice of carry forward under this Act or notice of phase in under the *Residential Rent Regulation Act* if,

(13) Lorsqu'il rend une ordonnance en vertu du présent article, l'agent des loyers rajuste, de la manière prescrite, le loyer maximal d'un logement locatif tel qu'il a été fixé dans un avis de report antérieur aux termes de la présente loi ou un avis d'inclusion progressive aux termes de la *Loi sur la réglementation des loyers d'habitation* si les conditions suivantes sont réunies :

Rajustement  
concernant un  
avis antérieur

- (a) the order under this section includes a finding of a discontinuance or reduction in the services or facilities provided in respect of a rental unit; and
- (b) the maximum rent for the rental unit was determined in the notice to come into effect after the day that the discontinuance or reduction is found to have first occurred with respect to that rental unit.

- a) l'ordonnance rendue en vertu du présent article comprend une conclusion concernant une interruption ou une réduction des services ou installations fournis à l'égard d'un logement locatif;
- b) il avait été énoncé dans l'avis que le loyer maximal du logement locatif prendrait effet après le jour où, d'après la conclusion, l'interruption ou la réduction s'est produite pour la première fois à l'égard de ce logement locatif.

Idem

(14) Despite subsections (12) and (13), a landlord is not guilty of an offence under this Act if, before the maximum rent is adjusted, the landlord has charged rent in an amount that is greater than that permitted under this Act as a result of the adjustment. ➡

(14) Malgré les paragraphes (12) et (13), le locateur n'est pas coupable d'une infraction à la présente loi si, avant que le loyer maximal ne soit rajusté, il a demandé un loyer plus élevé que celui qui est permis en vertu de la présente loi en raison du rajustement. ➡

Idem

#### CAPITAL CARRY FORWARD WITHOUT APPLICATION

Increase by amount earned forward

**22.—**(1) The maximum rent for a rental unit shall be increased by more than the guideline in accordance with this section if a notice of carry forward issued under this section authorizes the increase.

Notice of intent

(2) A landlord who wishes to have a notice of carry forward issued shall file with a Chief Rent Officer a notice of intent at least 120 days before the day that is,

- (a) twelve months after the effective date of the first rent increase set out in the order that permitted the carry forward; or
- (b) twenty-four months after the effective date of the first rent increase set out in the order that permitted the carry forward if,
  - (i) a subsequent order under section 21 provided for a further carry forward under this clause, or
  - (ii) a notice of carry forward under this section has previously been issued respecting part of the amount to be carried forward.

Findings

(3) A rent officer shall determine in accordance with the prescribed rules for each rental unit in the residential complex,

- (a) what guideline is to be applied to the rental unit;
- (b) the amount that is justified by the carry forward;
- (c) the amount of maximum rent for each rental unit and the date that maximum rent takes effect; and
- (d) the total amount of each capital component included in the maximum rent and the date on which that capital component is to be deducted from the maximum rent.

Capital component

(4) The rent officer shall determine the capital component of the maximum rent for each capital expenditure for which an amount is included in the maximum rent as follows:

1. If an amount is justified in respect of the carry forward of an allowance for

#### REPORT D'UNE DÉPENSE EN IMMOBILISATIONS SANS REQUÊTE

**22** (1) Le loyer maximal d'un logement locatif est augmenté d'un pourcentage supérieur au taux légal conformément au présent article si un avis de report délivré aux termes du présent article autorise l'augmentation.

Augmentation correspondant au montant du report

(2) Le locateur qui désire qu'un avis de report soit délivré dépose un avis d'intention auprès d'un agent principal des loyers au moins 120 jours avant le jour qui tombe :

Avis d'intention

- a) soit douze mois après la date de prise d'effet de la première augmentation de loyer énoncée dans l'ordonnance qui a permis le report;
- b) soit vingt-quatre mois après la date de prise d'effet de la première augmentation de loyer énoncée dans l'ordonnance qui a permis le report si, selon le cas :
  - (i) une ordonnance rendue ultérieurement en vertu de l'article 21 prévoit un report additionnel aux termes du présent alinéa,
  - (ii) un avis de report à l'égard d'une partie du montant à reporter a été délivré antérieurement aux termes du présent article.

(3) L'agent des loyers détermine, conformément aux règles prescrites, pour chaque logement locatif de l'ensemble d'habitation :

Conclusions

- a) le taux légal qui doit être appliqué au logement locatif;
- b) le montant qui est justifié par le report;
- c) le montant du loyer maximal de chaque logement locatif et la date à laquelle ce loyer maximal prend effet.
- d) le montant total de chaque élément d'immobilisations inclus dans le loyer maximal et la date à laquelle cet élément d'immobilisations doit être déduit du loyer maximal.

(4) L'agent des loyers détermine de la façon suivante l'élément d'immobilisations du loyer maximal pour chaque dépense en immobilisations pour laquelle un montant est inclus dans le loyer maximal :

Élément d'immobilisations

1. Si un montant est justifié en ce qui concerne le report d'un montant



a capital expenditure under clause (3) (b), the capital component for that capital expenditure is the sum of,

- i. the capital component for that capital expenditure from the most recent order or notice of carry forward referring to that capital expenditure, and
- ii. the prescribed part of the amount justified respecting the carry forward.

2. The capital component for a capital expenditure is its capital component from the most recent finding under clause 20 (1) (h) or determination under clause 22 (3) (d) if,

- i. there was a previous finding or determination in respect of the capital component, and
- ii. there is no new finding in respect of the capital component referring to the capital expenditure to which the capital component relates.

Guideline

(5) For the purposes of clause (3) (a), the guideline to be applied to the rental units is the guideline as of the first or second anniversary, as the case may be, of the effective date of the first rent increase in the residential complex set out in the order permitting the carry forward.

Idem

(6) The part of the guideline allocated to capital expenditures shall not be included in determining the maximum rents under clause (3) (c) for any of the rental units in the residential complex if the amount carried forward relates to a capital expenditure originally claimed under section 15 or 16.

Idem

(7) The part of the guideline allocated to capital expenditures shall not be included in determining the maximum rent under clause (3) (c) for a rental unit in a residential complex if subsection (6) does not apply and if the amount carried forward relates to a capital expenditure originally claimed under section 17.

Cap on maximum rent

(8) The rent officer shall not determine an amount of maximum rent under subsection (3) that increases the previous maximum rent by more than the amount obtained by apply-

reconnu à l'égard d'une dépense en immobilisations aux termes de l'alinéa (3) b), l'élément d'immobilisations à l'égard de cette dépense en immobilisations est la somme de ce qui suit :

- i. l'élément d'immobilisations à l'égard de cette dépense en immobilisations depuis le plus récent arrêté, ordre ou avis de report ou la plus récente ordonnance qui ont trait à cette dépense en immobilisations,
- ii. la partie prescrite du montant justifié à l'égard du report.

2. L'élément d'immobilisations à l'égard d'une dépense en immobilisations est l'élément d'immobilisations de celle-ci depuis la plus récente conclusion aux termes de l'alinéa 20 (1) h) ou la plus récente décision aux termes de l'alinéa 22 (3) d) si :

- i. d'une part, il y avait une conclusion ou décision antérieure concernant l'élément d'immobilisations,
- ii. d'autre part, il n'y a aucune nouvelle conclusion concernant l'élément d'immobilisations qui a trait à la dépense en immobilisations à laquelle se rapporte l'élément d'immobilisations.

(5) Pour l'application de l'alinéa (3) a), le taux légal applicable aux logements locatifs est le taux légal au premier ou au deuxième anniversaire, selon le cas, de la date de prise d'effet de la première augmentation de loyer touchant l'ensemble d'habitation énoncée dans l'ordonnance permettant le report.

Taux légal

(6) Il n'est pas tenu compte de la partie du taux légal se rapportant aux dépenses en immobilisations pour déterminer le loyer maximal des logements locatifs de l'ensemble d'habitation aux termes de l'alinéa (3) c) si le montant reporté se rapporte à une dépense en immobilisations initialement déclarée aux termes de l'article 15 ou 16.

Idem

(7) Il n'est pas tenu compte de la partie du taux légal se rapportant aux dépenses en immobilisations pour déterminer le loyer maximal d'un logement locatif de l'ensemble d'habitation aux termes de l'alinéa (3) c) si le paragraphe (6) ne s'applique pas et que le montant reporté se rapporte à une dépense en immobilisations initialement déclarée aux termes de l'article 17.

Idem

(8) L'agent des loyers ne peut pas fixer de montant du loyer maximal aux termes du paragraphe (3) qui fasse augmenter le loyer maximal précédent d'un montant supérieur à

Loyer maximal plafonné



ing the guideline plus 3 per cent to that part of the maximum rent that excludes all capital components.

Notice of  
carry  
forward

(9) Subject to subsection (14), after a landlord has filed a notice of intent and a rent officer has made the determinations under subsection (3), the rent officer shall issue a notice of carry forward to the landlord and to all of the tenants setting out the maximum rent for each rental unit and the date the maximum rent takes effect.

Capital  
component

(10) The rent officer shall set out in the notice,

(a) for the residential complex, the total amount of all new capital components and all capital components increased by the notice for all rental units for each capital expenditure and the useful life of the work done or the thing purchased;

(b) for each rental unit, the total amount of all capital components included in the maximum rent.

Idem

(11) The determination under clause (3) (d) shall be deemed to form part of the notice even if it is not set out in it.

Idem

(12) If a landlord or tenant who received a copy of a notice of carry forward requests a copy of the determination under clause (3) (d), the Chief Rent Officer shall provide it to that person without charge, despite section 132.

Exception

(13) If the amount the landlord intends to carry forward for a rental unit under subsection (2) is less than the reduction that would be taken under subsection (6) for that rental unit, the rent increase set out in the notice of carry forward shall be the guideline amount as set out in subsection (5).

Idem

(14) If the amount the landlord intends to carry forward for each of the rental units under subsection (2) is less than the reduction that would be taken under subsection (6) for that rental unit, the rent officer shall notify the landlord that a notice of carry forward will not be issued respecting any of those rental units and that the landlord may make an application under section 13 respecting any of them.

No applica-  
tion

(15) If a notice of intent has been filed respecting a residential complex, the landlord shall not make an application under section

celui obtenu en appliquant le taux légal plus 3 pour cent à la partie du loyer maximal qui exclut tous les éléments d'immobilisations.

Avis de  
report

(9) Sous réserve du paragraphe (14), après que le locateur a déposé un avis d'intention et qu'un agent des loyers a rendu les décisions prévues au paragraphe (3), l'agent des loyers délivre un avis de report au locateur et à tous les locataires, dans lequel sont énoncés le loyer maximal de chaque logement locatif et la date à laquelle le loyer maximal prend effet.

(10) L'agent des loyers énonce dans l'avis :

Éléments  
d'immobilisa-  
tions

a) à l'égard de l'ensemble d'habitation, le montant total de tous les nouveaux éléments d'immobilisations et de tous les éléments d'immobilisations augmentés par l'avis à l'égard de tous les logements locatifs pour chaque dépense en immobilisations et la vie utile des travaux effectués ou de la chose achetée;

b) à l'égard de chaque logement locatif, le montant total de tous les éléments d'immobilisations inclus dans le loyer maximal.

(11) La décision rendue aux termes de l'alinéa (3) d) est réputée faire partie de l'avis même si elle n'y est pas énoncée.

Idem

(12) Si le locateur ou le locataire qui a reçu une copie d'un avis de report demande une copie de la décision rendue aux termes de l'alinéa (3) d), l'agent principal des loyers fournit une copie de cette décision à cette personne sans demander de droits, malgré l'article 132.

Idem

(13) Si le montant que le locateur a l'intention de faire reporter à l'égard d'un logement locatif aux termes du paragraphe (2) est inférieur à la réduction qui serait effectuée aux termes du paragraphe (6) pour ce logement locatif, l'augmentation de loyer énoncée dans l'avis de report correspond au montant légal visé au paragraphe (5).

Exception

(14) Si le montant que le locateur a l'intention de faire reporter à l'égard de chacun des logements locatifs aux termes du paragraphe (2) est inférieur à la réduction qui serait effectuée aux termes du paragraphe (6) pour ce logement locatif, l'agent des loyers avise le locateur du fait qu'un avis de report ne sera pas délivré à l'égard de l'un quelconque de ces logements locatifs et que le locateur peut présenter une requête en vertu de l'article 13 à l'égard de l'un quelconque de ces logements.

Idem

(15) Si un avis d'intention a été déposé à l'égard d'un ensemble d'habitation, le locateur ne peut présenter de requête en vertu de

Aucune  
requête

13 seeking a rent increase for a rental unit that would have an effective date within the twelve-month period following the first effective date set out in the notice of intent unless a rent officer notifies the landlord under subsection (14) that a notice of carry forward will not be issued.

Application  
withdrawn

(16) If a landlord files a notice of intent, an application previously made under section 13 shall be deemed to be withdrawn if it seeks a rent increase for a rental unit that would have an effective date within the twelve-month period following the first effective date set out in the notice of intent.

#### APPLICATION TO REDUCE RENT

Application  
to reduce  
rent

**23.—(1)** A tenant of a rental unit in a residential complex may apply to a Chief Rent Officer for an order reducing the rent for the rental unit.

Idem

(2) An application under this section may be based on any one or more of the grounds set out in sections 24 to 26.

Parties to be  
added

(3) If a rent officer believes that the rents of one or more rental units in the residential complex would be directly affected by the issues raised in an application under this section, the rent officer shall add the tenants of those rental units as parties to the application.

All units  
considered

(4) In the application, the rent officer determining the matter shall determine the rents that may be charged or the maximum rent for the rental units referred to in subsections (1) and (3).

Former  
tenant

(5) A person may make an application under this section as a tenant of a rental unit based on a discontinuance or reduction in services and facilities if the person was a tenant of that rental unit and was affected by the discontinuance or reduction of the services and facilities even if the person is no longer a tenant of that rental unit at the time of the application.

Operating  
costs

**24.—(1)** The tenant may base an application on an extraordinary decrease in operating costs for municipal taxes, hydro, water or heating for the whole residential complex.

Where  
decrease is  
extraordinary

(2) A decrease in operating costs for municipal taxes, hydro, water or heating for the whole residential complex is extraordinary if the decrease, expressed as a percentage, is at least 50 per cent less than the percentage set out in the corresponding operating cost category recognized in the

l'article 13 visant une augmentation de loyer à l'égard d'un logement locatif qui prendrait effet au cours de la période de douze mois suivant la première date de prise d'effet énoncée dans l'avis d'intention, à moins qu'un agent des loyers n'avise le locateur en vertu du paragraphe (14) du fait qu'un avis de report ne sera pas délivré.

Désistement  
réputé

(16) Si le locateur dépose un avis d'intention, il est réputé se désister d'une requête qu'il a présentée antérieurement en vertu de l'article 13 si cette requête vise une augmentation de loyer à l'égard d'un logement locatif qui prendrait effet au cours de la période de douze mois suivant la première date de prise d'effet énoncée dans l'avis d'intention.

#### REQUÊTE VISANT À RÉDUIRE LE LOYER

**23 (1)** Le locataire d'un logement locatif d'un ensemble d'habitation peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance réduisant le loyer du logement locatif.

Requête  
visant à  
réduire le  
loyer

(2) Une requête présentée en vertu du présent article peut être fondée sur un ou plusieurs des motifs énoncés aux articles 24 à 26.

Idem

(3) S'il croit que le loyer d'un ou de plusieurs logements locatifs de l'ensemble d'habitation serait directement touché par les questions soulevées dans une requête présentée en vertu du présent article, l'agent des loyers ajoute les locataires de ces logements locatifs comme parties à la requête.

Parties à  
ajouter

(4) Dans le cadre de la requête, l'agent des loyers qui statue sur la question fixe les loyers qui peuvent être demandés ou le loyer maximal des logements locatifs mentionnés aux paragraphes (1) et (3).

Prise en con-  
sidération de  
tous les loge-  
ments

(5) Une personne peut présenter une requête fondée sur une interruption ou une réduction des services et installations en vertu du présent article en qualité de locataire d'un logement locatif si elle a été locataire de ce logement locatif et qu'elle a été touchée par cette interruption ou cette réduction et ce, même si la personne n'est plus locataire de ce logement locatif au moment où la requête est présentée.

Ancien loca-  
taire

**24 (1)** Le locataire peut fonder sa requête sur une diminution extraordinaire des frais d'exploitation de tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.

Frais d'ex-  
ploitation

(2) Une diminution des frais d'exploitation de tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage est extraordinaire si cette diminution, exprimée sous forme de pourcentage, est inférieure d'au moins 50 pour cent au pourcentage énoncé dans la catégorie de

Diminution  
extraordinaire



Table referred to in subsection 12 (1) for that item.

frais d'exploitation correspondante reconnue pour cet élément dans le barème mentionné au paragraphe 12 (1).

Consider  
increase

(3) Before making an order on an application under this section, the rent officer shall consider any evidence provided by the landlord concerning an extraordinary increase in operating costs for municipal taxes, hydro, water or heating for the whole residential complex.

(3) Avant de rendre une ordonnance par suite d'une requête présentée en vertu du présent article, l'agent des loyers tient compte de tout élément de preuve que le locateur fournit en ce qui concerne une augmentation extraordinaire des frais d'exploitation de tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.

Augmentation  
incluse

Inadequate  
maintenance

25. The tenant may base an application on whether the standard of maintenance or repair of the rental unit or of the whole residential complex is inadequate.

25 Le locataire peut fonder sa requête sur la question de savoir si le niveau d'entretien ou de réparation du logement locatif ou de l'ensemble d'habitation est insuffisant.

Entretien  
insuffisant

Reduced  
services

26. The tenant may base an application on any discontinuance or reduction in the services and facilities provided in respect of the rental unit or of the whole residential complex.

26 Le locataire peut fonder sa requête sur une interruption ou une réduction des services et installations fournis à l'égard d'un logement locatif ou de tout l'ensemble d'habitation.

Réduction de  
services

Findings

27. Before making an order on an application under section 23, the rent officer shall make findings according to the prescribed rules for each rental unit affected by the order,

27 Avant de rendre une ordonnance par suite d'une requête présentée en vertu de l'article 23, l'agent des loyers émet des conclusions conformément aux règles prescrites au sujet de chaque logement locatif visé par l'ordonnance :

Conclusions

(a) to determine which of the grounds the tenant relies on in the application apply to the rental unit; and

a) d'une part, pour déterminer lesquels des motifs invoqués par le locataire dans sa requête s'appliquent au logement locatif;

(b) for each such ground to determine whether a reduction of the rent charged or of maximum rent is justified and in what amount.

b) d'autre part, pour déterminer, à l'égard de chacun de ces motifs, si une réduction du loyer demandé ou du loyer maximal est justifiée et en fixer le montant.

Order

28.—(1) On an application under section 23, a rent officer may do any or all of the following, according to the prescribed rules:

28 (1) Par suite d'une requête présentée en vertu de l'article 23, l'agent des loyers peut, conformément aux règles prescrites, prendre l'une quelconque des mesures suivantes :

Ordonnance

1. Order that the maximum rent for the rental unit be reduced by a specified amount.

1. Ordonner que le loyer maximal du logement locatif soit réduit d'un montant précisé.

2. Order that the amount of rent charged for the rental unit be reduced by a specified amount for a specified period of time.

2. Ordonner que le montant du loyer demandé pour le logement locatif soit réduit d'un montant précisé pour une période précisée.

3. Order that the amount of rent charged for the rental unit shall not be increased for a specified period of time.

3. Ordonner que le montant du loyer demandé pour le logement locatif ne soit pas augmenté pour une période précisée.

When effective

(2) An order under this section is effective,

(2) Une ordonnance rendue en vertu du présent article est en vigueur :

Ordonnance  
en vigueur

(a) in respect of a discontinuance or reduction in services and facilities, as of the day that discontinuance or reduction first occurs; and

a) à l'égard d'une interruption ou d'une réduction des services et installations, à compter du jour où cette interruption ou réduction se produit pour la première fois;



(b) otherwise, as of the day named in the order, which day shall not be before the date the application was filed or after the date of the order.

b) dans les autres cas, à compter du jour fixé dans l'ordonnance, lequel ne peut pas tomber avant la date de dépôt de la requête ou après la date de l'ordonnance.

Idem

(3) Subsection (2) applies even if the effective date of the first rent increase set out in a previous notice of carry forward under this Act or notice of phase in under the *Residential Rent Regulation Act* that determined the maximum rent for a rental unit was after the day on which an order under this section is effective for that rental unit under subsection (2).

(3) Le paragraphe (2) s'applique même si la date de prise d'effet de la première augmentation de loyer énoncée dans un avis de report antérieur aux termes de la présente loi ou un avis d'inclusion progressive aux termes de la *Loi sur la réglementation des loyers d'habitation* qui fixait le loyer maximal d'un logement locatif tombait après le jour où une ordonnance rendue en vertu du présent article entre en vigueur à l'égard de ce logement locatif aux termes du paragraphe (2).

Idem

No order

(4) If the effective date of the first rent increase set out in a previous order under this Act or the *Residential Rent Regulation Act* that determined the maximum rent for a rental unit was after the day on which an order under this section would be effective for that rental unit under subsection (2), no order granting relief shall be made under this section.

(4) Aucune ordonnance accordant un redressement n'est rendue en vertu du présent article si la date de prise d'effet de la première augmentation de loyer énoncée dans un arrêté, un ordre ou une ordonnance pris, donné ou rendue antérieurement en vertu de la présente loi ou de la *Loi sur la réglementation des loyers d'habitation*, qui fixait le loyer maximal d'un logement locatif, tombait après le jour où une ordonnance rendue en vertu du présent article entrerait en vigueur à l'égard de ce logement locatif aux termes du paragraphe (2).

Aucune ordonnance

Adjust previous order

(5) When making an order under this section, the rent officer shall, in the prescribed manner, adjust the maximum rent for a rental unit set out in a previous order if the maximum rent for the rental unit was determined in the previous order to come into effect after the day the order under this section is to be effective for that rental unit.

(5) Lorsqu'il rend une ordonnance en vertu du présent article, l'agent des loyers rajuste, de la manière prescrite, le loyer maximal d'un logement locatif énoncé dans un arrêté, un ordre ou une ordonnance antérieur s'il avait été énoncé dans l'arrêté, l'ordre ou l'ordonnance antérieur que le loyer maximal du logement locatif prendrait effet après le jour où l'ordonnance rendue en vertu du présent article doit entrer en vigueur pour ce logement locatif.

Rajustement concernant un arrêté, un ordre ou une ordonnance antérieur

Adjust previous notice

(6) When making an order under this section, the rent officer shall, in the prescribed manner, adjust the maximum rent for a rental unit as determined in a previous notice of carry forward under this Act or notice of phase in under the *Residential Rent Regulation Act* if the maximum rent for the rental unit was determined in the notice to come into effect after the day the order under this section is to be effective for that rental unit.

(6) Lorsqu'il rend une ordonnance en vertu du présent article, l'agent des loyers rajuste, de la manière prescrite, le loyer maximal d'un logement locatif tel qu'il a été fixé dans un avis de report antérieur aux termes de la présente loi ou un avis d'inclusion progressive aux termes de la *Loi sur la réglementation des loyers d'habitation* s'il avait été énoncé dans l'avis que le loyer maximal du logement locatif prendrait effet après le jour où l'ordonnance rendue en vertu du présent article doit entrer en vigueur pour ce logement locatif.

Rajustement concernant un avis antérieur

Idem

(7) Despite subsections (5) and (6), a landlord is not guilty of an offence under this Act if, before the maximum rent is adjusted, the landlord has charged rent in an amount that is greater than that permitted under this Act as a result of the adjustment.

(7) Malgré les paragraphes (5) et (6), le locateur n'est pas coupable d'une infraction à la présente loi si, avant que le loyer maximal ne soit rajusté, il a demandé un loyer plus élevé que celui qui est permis en vertu de la présente loi en raison du rajustement.

Idem

Order for payment of money

(8) The rent officer may order the landlord to pay to the tenant any sum of money

(8) L'agent des loyers peut ordonner au locateur de verser au locataire toute somme

Ordonnance de paiement

that is owed to the tenant as a result of the rent officer's order.

(9) If an order under this section is effective as of a date before the date it is made and if, as a result, a tenant has paid rent in excess of that permitted by the order, section 30 applies to that excess rent and the rent officer's order under this section may contain any terms that could be made in an order under that section as if an application under that section had been made and joined with the application under section 23.

(10) A rent officer shall not make an order under this section respecting a rental unit if an order has been made under section 94 of the *Landlord and Tenant Act* and compliance with that order would afford an adequate remedy to the tenant of the rental unit.

#### ADVANCE DETERMINATION

29.—(1) Before making a capital expenditure or providing a new or additional service in respect of a residential complex or a rental unit in it, the landlord may apply to a Chief Rent Officer for an advance determination under this section.

(2) Before making an order on the application, the rent officer shall make findings in accordance with the prescribed rules for each rental unit affected by the order,

- (a) to determine whether a proposed expenditure is an eligible capital expenditure;
- (b) if a proposed expenditure or service is in respect of a rental unit, to determine if the tenant of the rental unit has consented to it;
- (c) to determine the amount that will be allowed in respect of the expenditure or service in an application made under section 13;
- (d) to determine any other prescribed matter.

(3) The rent officer shall make an order based on the findings.

#### PAYMENT OF ILLEGAL RENT

30.—(1) No tenant is liable to pay any rent in excess of that permitted to be charged under this Act.

d'argent qu'il lui doit par suite de l'ordonnance rendue par l'agent des loyers.

(9) Si une ordonnance prévue au présent article est en vigueur à compter d'une date qui est antérieure à la date à laquelle elle est rendue et qu'il s'ensuit qu'un locataire a payé un loyer supérieur à celui que permet l'ordonnance, l'article 30 s'applique à cet excédent de loyer et l'ordonnance rendue par l'agent des loyers en vertu du présent article peut être assortie des conditions qui pourraient être imposées dans une ordonnance rendue en vertu de cet article comme si une requête présentée en vertu de cet article avait été présentée et jointe à la requête présentée en vertu de l'article 23.

(10) L'agent des loyers ne peut pas rendre d'ordonnance en vertu du présent article à l'égard d'un logement locatif si une ordonnance a été rendue en vertu de l'article 94 de la *Loi sur la location immobilière* et que l'observation de cette ordonnance fournirait un recours adéquat au locataire du logement locatif.

#### DÉCISION ANTICIPÉE

29 (1) Avant d'engager une dépense en immobilisations ou de fournir un nouveau service ou un service supplémentaire à l'égard d'un ensemble d'habitation ou d'un logement locatif qui s'y trouve, le locateur peut demander, par voie de requête, à un agent principal des loyers de rendre une décision anticipée aux termes du présent article.

(2) Avant de rendre une ordonnance par suite de la requête, l'agent des loyers émet des conclusions, conformément aux règles prescrites, à l'égard de chaque logement locatif visé par l'ordonnance afin de :

- a) déterminer si la dépense proposée constitue une dépense en immobilisations admissible;
- b) s'il s'agit d'une dépense ou d'un service proposé à l'égard d'un logement locatif, déterminer si le locataire du logement locatif y a consenti;
- c) déterminer le montant qui sera reconnu à l'égard de la dépense ou du service dans une requête présentée en vertu de l'article 13;
- d) statuer sur toute autre question prescrite.

(3) L'agent des loyers rend une ordonnance en se fondant sur les conclusions.

#### PAIEMENT D'UN LOYER ILLÉGAL

30 (1) Nul locataire n'est tenu de payer un loyer qui dépasse celui que la présente loi permet de demander.

Ordonnance visée à l'art. 30

Aucune ordonnance rendue

Décision anticipée

Conclusions

Ordonnance

Locataire non tenu de payer un loyer illégal

Order under s. 30

No order to be made

Advance determination

Findings

Order

Tenant not liable to pay illegal rent



Application  
re illegal  
rent

(2) A tenant may apply to a Chief Rent Officer for an order determining that a landlord has charged the tenant an amount of rent that is in excess of that permitted by this Act, the *Residential Rent Regulation Act*, Part XI of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, or *The Residential Premises Rent Review Act, 1975 (2nd Session)*.

(2) Un locataire peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance déterminant que le locateur lui a demandé un loyer supérieur à celui permis par la présente loi, la *Loi sur la réglementation des loyers d'habitation*, la partie XI de la loi intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, ou la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)*.

Requête rela-  
tive à un  
loyer illégal

Findings and  
order

(3) On an application under subsection (2), a rent officer shall determine, in accordance with the prescribed rules, whether the landlord has charged the tenant an amount of rent that is in excess of that permitted by this Act, the *Residential Rent Regulation Act*, Part XI of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, or *The Residential Premises Rent Review Act, 1975 (2nd Session)* and shall by order declare,

(3) Par suite d'une requête présentée en vertu du paragraphe (2), un agent des loyers détermine, conformément aux règles prescrites, si le locateur a demandé au locataire un loyer supérieur à celui permis par la présente loi, la *Loi sur la réglementation des loyers d'habitation*, la partie XI de la loi intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, ou la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)* et déclare par voie d'ordonnance :

Conclusions  
et ordon-  
nance

- (a) the maximum rent for the rental unit concerned and the earliest date the maximum rent took effect or takes effect;
- (b) the rent that may be charged, if that is less than the maximum rent, the earliest date on which that rent took effect or takes effect and the period it is to be in effect; and
- (c) the amount, if any, of excess rent paid by the tenant to a landlord that the landlord owes to the tenant, if that amount is equal to or less than the monetary jurisdiction of the Small Claims Court.

- a) le loyer maximal du logement locatif visé et la date à laquelle le loyer maximal a pris ou prend effet au plus tôt;
- b) le loyer qui peut être demandé, s'il est inférieur au loyer maximal, la date à laquelle ce loyer a pris ou prend effet au plus tôt et la période pendant laquelle il doit avoir effet;
- c) l'excédent de loyer, le cas échéant, que le locataire a payé au locateur et que ce dernier doit au locataire, si ce montant est égal ou inférieur au montant de la compétence d'attribution de la Cour des petites créances.

Idem

(4) If the amount of excess rent owing is equal to or less than the monetary jurisdiction of the Small Claims Court, the rent officer shall also order the landlord to pay the excess rent owing to the tenant plus any interest on that amount.

(4) Si l'excédent de loyer qui est dû est égal ou inférieur au montant de la compétence d'attribution de la Cour des petites créances, l'agent des loyers ordonne également au locateur de payer l'excédent de loyer qu'il doit au locataire et l'intérêt sur ce montant.

Idem

Idem

(5) If the amount of excess rent owing is more than the monetary jurisdiction of the Small Claims Court,

(5) Si l'excédent de loyer qui est dû est supérieur au montant de la compétence d'attribution de la Cour des petites créances, le locataire peut, selon le cas :

Idem

- (a) the tenant may, by notice in writing in the prescribed form filed with the rent officer, abandon the excess over the monetary jurisdiction of the Small Claims Court and seek an order for payment; or
- (b) the tenant may commence a proceeding in any court of competent jurisdiction for an order requiring the landlord to pay the full amount owed.

- a) au moyen d'un avis rédigé selon la formule prescrite et déposé auprès de l'agent des loyers, renoncer à la partie de l'excédent de loyer qui dépasse le montant de la compétence d'attribution de la Cour des petites créances et tenter d'obtenir une ordonnance de paiement;
- b) introduire une instance devant un tribunal compétent en vue d'obtenir une ordonnance enjoignant au locateur de payer la totalité du montant qu'il doit.



Idem

(6) If the tenant seeks an order under clause (5) (a), the rent officer may make an order for the landlord to pay to the tenant an amount equal to the monetary jurisdiction of the Small Claims Court plus any interest on that amount and all rights of the tenant in excess of that amount are extinguished.

Idem

(7) If the tenant commences a proceeding under clause (5) (b), the court may exercise any powers that the rent officer could have exercised had the proceeding been before the rent officer and within his or her jurisdiction.

Order to deduct from rent

(8) If the landlord who made the illegal charge is the tenant's landlord at the time of the order, the order may provide that if the landlord fails to pay the amount owing under the order, the tenant may recover that amount plus interest as may be directed in the order by deducting a specified sum from the tenant's rent paid to the landlord for a specified number of rent payment periods.

Idem

(9) Nothing in subsection (8) limits the right of the tenant to collect at any time the full amount owing or any balance outstanding under the order.

Interest

(10) Interest shall be ordered at the rate set for postjudgment interest under the *Courts of Justice Act*, and the interest payable shall be calculated in accordance with the prescribed rules.

Small Claims Court jurisdiction

(11) In any area in which the monetary jurisdiction of the Small Claims Court is less than \$5,000, a reference in this section to the monetary jurisdiction of the Small Claims Court shall be deemed to be a reference to \$5,000.

Limitation

(12) No order shall be made for any money paid more than six years before the filing date of the tenant's application under this section.

Who may make application

(13) A person may make an application under this section as a tenant of a rental unit if the person was a tenant of that rental unit at the time the conduct giving rise to the application occurred even if the person is no longer a tenant of that rental unit at the time of the application.

Subtenant

(14) If a tenant of a rental unit sublets it or attempts to sublet it to another person, this section applies with necessary modifications to the tenant and the other person as if

(6) Si le locataire tente d'obtenir une ordonnance en vertu de l'alinéa (5) a), l'agent des loyers peut rendre une ordonnance enjoignant au locateur de payer au locataire un montant égal au montant de la compétence d'attribution de la Cour des petites créances et l'intérêt sur ce montant. Tous les droits du locataire à l'égard de la partie de l'excédent de loyer qui dépasse ce montant sont alors éteints.

Idem

(7) Si le locataire introduit une instance en vertu de l'alinéa (5) b), le tribunal peut exercer les pouvoirs que l'agent des loyers aurait pu exercer si l'instance avait été introduite devant lui et avait relevé de sa compétence.

Idem

(8) Si le locateur qui a demandé le montant illégal est le locateur du locataire au moment où l'ordonnance est rendue, celle-ci peut prévoir que si le locateur ne paie pas le montant qui est dû aux termes de l'ordonnance, le locataire peut recouvrer ce montant et l'intérêt, selon ce qui est énoncé dans l'ordonnance, en déduisant du loyer qu'il paie au locateur une somme déterminée pendant un nombre déterminé de périodes de paiement de loyer.

Ordonnance de déduction

(9) Le paragraphe (8) n'a pas pour effet de limiter le droit qu'a le locataire de percevoir à n'importe quel moment la totalité du montant dû ou tout solde impayé aux termes de l'ordonnance.

Idem

(10) L'ordonnance fixe l'intérêt au taux prévu par la *Loi sur les tribunaux judiciaires* pour des intérêts postérieurs à un jugement. L'intérêt payable est calculé conformément aux règles prescrites.

Intérêt

(11) Dans une localité où le montant de la compétence d'attribution de la Cour des petites créances est inférieur à 5 000 \$, la mention du montant de la compétence d'attribution de la Cour des petites créances au présent article est réputée une mention de 5 000 \$.

Compétence de la Cour des petites créances

(12) Aucune ordonnance ne peut être rendue à l'égard d'une somme d'argent payée plus de six ans avant la date de dépôt de la requête du locataire prévue au présent article.

Prescription

(13) Une personne peut présenter une requête en vertu du présent article en qualité de locataire d'un logement locatif si elle était locataire de celui-ci au moment où s'est produite la conduite qui a donné lieu à la requête et ce, même si la personne n'est plus locataire de ce logement locatif au moment où la requête est présentée.

Qui peut présenter une requête

(14) Si le locataire d'un logement locatif sous-loue ou tente de sous-louer le logement à une autre personne, le présent article s'applique, avec les adaptations nécessaires, au locataire et à l'autre personne, comme si le

Sous-locataire

the tenant were a landlord and the other person were a tenant.

#### ILLEGAL ADDITIONAL CHARGES

Additional  
charges  
prohibited

**31.—(1)** No landlord shall, directly or indirectly, in respect of any rental unit,

- (a) collect or require or attempt to collect or require from a tenant or prospective tenant of the rental unit any consideration, fee, premium, commission, bonus, penalty, key deposit or other like amount of money whether or not the money is refundable;
- (b) require or attempt to require a tenant or prospective tenant to pay any consideration for goods or services as a condition for granting the tenancy or continuing to permit occupancy of a rental unit if that consideration is in addition to the rent the tenant is lawfully required to pay to the landlord; or
- (c) rent any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent the landlord lawfully may charge for the rental unit.

Idem

(2) No superintendent, property manager or other person who acts on behalf of a landlord in respect of a rental unit shall, directly or indirectly, with or without the authority of the landlord, do any of the things mentioned in clause (1) (a), (b) or (c) in respect of that rental unit.

Idem

(3) No tenant and no person acting on behalf of the tenant shall, directly or indirectly,

- (a) sublet a rental unit for a rent that is greater than the rent that is lawfully charged by the landlord for the rental unit;
- (b) sublet any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent that is lawfully charged by the landlord for the rental unit;
- (c) collect or require or attempt to collect or require from any tenant or prospective tenant any consideration, fee, premium, commission, bonus, penalty,

locataire était un locateur et que l'autre personne était un locataire.

#### CHARGES SUPPLÉMENTAIRES ILLÉGALES

**31 (1)** Nul locateur ne doit prendre, directement ou indirectement, l'une quelconque des mesures suivantes à l'égard d'un logement locatif :

Charges supplémentaires  
interdites

- a) percevoir ou exiger, ou tenter de percevoir ou d'exiger d'un locataire ou d'un locataire éventuel du logement locatif une contrepartie, des frais, un droit, une commission, une compensation, une amende, un dépôt pour les clés ou une autre somme de ce genre, que la somme soit remboursable ou non;
- b) exiger ou tenter d'exiger d'un locataire ou d'un locataire éventuel une contrepartie pour des biens ou des services comme condition à l'octroi de la location et au maintien de la permission d'occuper un logement locatif si cette contrepartie s'ajoute au loyer que le locataire a l'obligation légale de payer au locateur;
- c) louer une partie du logement locatif pour un loyer qui, ajouté à tous les autres loyers payables pour toutes les autres parties du logement locatif, dépasse le loyer légal que le locateur peut demander pour le logement locatif.

Idem

(2) Aucun concierge, gérant ou autre personne agissant au nom d'un locateur en ce qui concerne un logement locatif ne doit prendre directement ou indirectement avec ou sans l'autorisation du locateur, l'une quelconque des mesures mentionnées à l'alinéa (1) a), b) ou c) à l'égard de ce logement locatif.

Idem

(3) Nul locataire et nulle personne agissant au nom de celui-ci ne doit prendre, directement ou indirectement, l'une quelconque des mesures suivantes :

- a) sous-louer un logement locatif pour un loyer qui dépasse le loyer légal demandé par le locateur pour le logement locatif;
- b) sous-louer une partie du logement locatif pour un loyer qui, ajouté à tous les autres loyers payables pour toutes les autres parties du logement locatif, dépasse le loyer légal que le locateur demande pour le logement locatif;
- c) percevoir ou exiger, ou tenter de percevoir ou d'exiger d'un locataire ou d'un locataire éventuel une contrepartie, des frais, un droit, une commis-



key deposit or other like amount of money, for subletting a rental unit or any portion of it, for assigning a tenancy agreement for a rental unit, for surrendering occupancy of a rental unit or for otherwise parting with possession of a rental unit; or

- (d) require or attempt to require a prospective subtenant, assignee or occupant to pay any consideration for goods or services as a condition for the sublet, assignment or surrender of occupancy or possession or for otherwise parting with possession, in addition to the rent the subtenant, assignee or occupant is lawfully required to pay to the tenant or landlord.

Application  
re illegal  
charges

**32.—**(1) A person may apply to a Chief Rent Officer for an order determining that a person has collected money from that person if the collection is prohibited by clause 31 (1) (a), (1) (b), (3) (c) or (3) (d) of this Act or section 99 of the *Residential Rent Regulation Act*.

Findings and  
order

- (2) On an application under subsection (1), a rent officer shall,
  - (a) make findings on the issue in dispute; and
  - (b) by order declare the amount, if any, of money that the person owes to the tenant, if that amount is equal to or less than the monetary jurisdiction of the Small Claims Court.

Application  
of s. 30

- (3) Subsections 30 (4) to (12) apply to this section with necessary modifications as if the amount owed were the excess rent and the person ordered to pay were the landlord.

#### DETERMINATION OF ISSUES

Application  
to determine  
issues

**33.—**(1) A landlord, a tenant or the Director may apply to a Chief Rent Officer for an order determining,

- (a) whether this Act applies to a particular rental unit or residential complex;
- (b) what rental units, common areas, services and facilities are included in a particular residential complex;

sion, une compensation, une amende, un dépôt pour les clés ou une autre somme de ce genre pour sous-louer un logement locatif ou une partie de celui-ci, pour céder le bail d'un logement locatif, pour abandonner l'occupation d'un logement locatif ou pour mettre un terme autrement à la possession des lieux en ce qui concerne un logement locatif;

- d) exiger ou tenter d'exiger d'un sous-locataire, cessionnaire ou occupant éventuel une contrepartie pour des biens ou des services comme condition à la sous-location, la cession ou l'abandon de l'occupation ou de la possession des lieux, ou comme condition pour mettre un terme autrement à la possession des lieux, en plus du loyer que le sous-locataire, le cessionnaire ou l'occupant a l'obligation légale de payer au locataire ou au locateur.

**32** (1) Une personne peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance déterminant qu'une personne a perçu une somme d'argent de cette personne s'il est interdit de la percevoir aux termes de l'alinéa 31 (1) a), (1) b), (3) c) ou (3) d) de la présente loi ou de l'article 99 de la *Loi sur la réglementation des loyers d'habitation*.

Requête relative à des charges illégales

- (2) Par suite d'une requête présentée en vertu du paragraphe (1), l'agent des loyers :

Conclusions et ordonnance

- a) émet des conclusions au sujet de la question en litige;
- b) déclare, par voie d'ordonnance, le montant, le cas échéant, de la somme d'argent que la personne doit au locataire, si ce montant est égal ou inférieur au montant de la compétence d'attribution de la Cour des petites créances.

- (3) Les paragraphes 30 (4) à (12) s'appliquent au présent article, avec les adaptations nécessaires, comme si la somme due était l'excédent de loyer et que la personne à qui il est ordonné de payer cette somme était le locateur.

Application de l'art. 30

#### RÈGLEMENT DE QUESTIONS EN LITIGE

**33** (1) Un locateur, un locataire ou le directeur peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance sur ce qui suit :

Requête en vue du règlement de questions en litige

- a) si la présente loi s'applique à un logement locatif en particulier ou à un ensemble d'habitation en particulier;
- b) quels logements locatifs, aires communes, services et installations sont com-



- (c) what the maximum rent is for a rental unit and the date on which it takes effect;
- (d) whether an agreement referred to in subsection 46 (1) has been entered into as a result of coercion or because of a false, incomplete or misleading representation by the landlord or an agent of the landlord; and
- (e) any other prescribed matter.

Idem

(2) A landlord, a tenant or the Registrar may apply to a Chief Rent Officer for an order determining,

- (a) whether any change of information that is necessary to determine the accuracy and currency of the rent registry has not been filed with the Registrar under section 107;
- (b) whether any information filed by a landlord under Part III is correct and complete;
- (c) whether the maximum rent recorded in the rent registry is correct;
- (d) whether any information or determination in a notice of rent information of the Registrar is correct and complete;
- (e) whether a decrease in maximum rent calculated under section 113 is accurate;
- (f) whether the amount of the decrease of the maximum rent calculated under section 113 should be changed as a result of an appeal of the change in assessment on which it is based; and
- (g) any other prescribed matter.

Order

(3) On the application, the rent officer shall make findings on the issue put before him or her in accordance with the prescribed rules and shall make the appropriate order.

## COMPLIANCE WITH STANDARDS

Director to receive files and orders

**34.** Upon the coming into force of this section, the Director shall receive from the Residential Rental Standards Board,

- (a) all outstanding orders that it has received under clause 15 (1) (e) of the *Residential Rent Regulation Act*;
- (b) all outstanding reports and orders issued under sections 15 and 16 of that Act; and

pris dans un ensemble d'habitation en particulier;

- c) quel est le loyer maximal d'un logement locatif et quelle est la date à laquelle il entre en vigueur;
- d) si une entente visée au paragraphe 46 (1) a été conclue sous la contrainte ou par suite d'une déclaration fausse, incomplète ou trompeuse du locateur ou de son représentant;
- e) toute autre question prescrite.

(2) Un locateur, un locataire ou le registraire peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance sur ce qui suit :

- a) si une modification des renseignements nécessaire pour que le registre des loyers soit exact et à jour n'a pas été déclarée au registraire aux termes de l'article 107;
- b) si des renseignements déclarés par un locateur aux termes de la partie III sont exacts et complets;
- c) si le loyer maximal inscrit au registre des loyers est exact;
- d) si des renseignements ou une décision contenus dans un avis de renseignements sur les loyers donné par le registraire sont exacts et complets;
- e) si une réduction du loyer maximal calculée aux termes de l'article 113 est exacte;
- f) si le montant de la réduction du loyer maximal calculée aux termes de l'article 113 devrait être modifié par suite d'un appel de la modification de l'évaluation foncière à partir de laquelle la réduction est calculée;
- g) toute autre question prescrite.

Idem

(3) Par suite de la requête, l'agent des loyers émet des conclusions, conformément aux règles prescrites, au sujet de la question en litige qui lui est soumise et rend l'ordonnance appropriée.

Ordonnance

## OBSERVATION DES NORMES

**34** Lorsque le présent article entre en vigueur, le directeur reçoit du Conseil des normes de location résidentielle ce qui suit :

- a) tous les ordres en vigueur que le Conseil des normes a reçus aux termes de l'alinéa 15 (1) (e) de la *Loi sur la réglementation des loyers d'habitation*;
- b) tous les rapports, arrêtés et ordres en vigueur qui ont été remis, pris ou don-

Dossiers, ordres et arrêtés reçus par le directeur

- (c) all of its files containing information about complaints or investigations relating to possible violations of minimum maintenance standards adopted by the Standards Board under that Act.

Director to  
receive work  
orders

**35.—(1)** Subject to subsection (2), the Director shall receive a copy of any order relating to a residential complex or a rental unit in it or any notice of appeal or decision on an appeal from such an order if the order is,

- (a) issued by a property standards officer under a by-law passed under section 31 of the *Planning Act* or passed under any special Act respecting standards for maintenance and occupancy that is in force in a municipality; or
- (b) made under any general or special Act, or any by-law passed under such an Act, respecting standards relating to the health or safety of occupants of buildings or structures.

Act - *OWRA* ?

(2) The Director shall receive an order under subsection (1) only if,

- (a) the period for compliance with the order has expired or, if the order has been stayed, the period for compliance with it would have expired had the order not been stayed;
- (b) the order has not been complied with; and
- (c) the time for appealing the order has expired.

Municipality  
to forward  
work orders:

(3) The Council of a municipality shall forward to the Director any order of the municipality or notice of appeal referred to in subsections (1) and (2) as soon as practicable and no later than the last day of the calendar month following the month in which the period for compliance with the order has expired.

Idem

(4) The Council of a municipality shall forward to the Director any decision on appeal of an order referred to in subsection (3) as soon as practicable and no later than the last day of the calendar month following the month in which the decision was issued.

nés en vertu des articles 15 et 16 de cette loi;

- (c) tous ses dossiers qui contiennent des renseignements au sujet de plaintes ou d'enquêtes relatives à d'éventuelles inobservations des normes d'entretien minimales adoptées par le Conseil des normes en vertu de cette loi.

**35 (1)** Sous réserve du paragraphe (2), le directeur reçoit une copie d'un ordre ou d'une ordonnance à l'égard d'un ensemble d'habitation ou d'un logement locatif qui s'y trouve, ou d'un avis d'appel ou d'une décision issue de l'appel d'un tel ordre ou d'une telle ordonnance, si, selon le cas :

Ordres ou  
ordonnances  
reçus par le  
directeur

- (a) l'ordre est donné par un agent des normes des biens-fonds en vertu d'un règlement municipal pris en application de l'article 31 de la *Loi sur l'aménagement du territoire* ou d'une loi spéciale à l'égard des normes d'entretien et d'occupation, qui est en vigueur dans la municipalité;
- (b) l'ordre est donné ou l'ordonnance rendue en vertu d'une loi générale ou spéciale, ou d'un règlement municipal pris en application d'une telle loi, portant sur les normes à l'égard de la santé ou de la sécurité des occupants d'immeubles ou de constructions.

(2) Le directeur reçoit les ordres ou ordonnances visés au paragraphe (1) seulement si les conditions suivantes sont réunies :

Idem

- (a) le délai imparti pour se conformer à l'ordre ou à l'ordonnance a expiré ou, s'il a été sursis à l'ordre ou à l'ordonnance, le délai imparti pour s'y conformer aurait expiré s'il n'avait pas été sursis à l'ordre ou à l'ordonnance;
- (b) l'ordre ou l'ordonnance n'a pas été observé;
- (c) le délai imparti pour interjeter appel de l'ordre ou de l'ordonnance a expiré.

(3) Le conseil d'une municipalité envoie au directeur tout ordre ou ordonnance de la municipalité ou tout avis d'appel mentionnés aux paragraphes (1) et (2) aussitôt que possible mais au plus tard le dernier jour du mois civil suivant le mois au cours duquel le délai imparti pour se conformer à l'ordre ou à l'ordonnance a expiré.

Envoi d'ordres ou d'ordonnances par les municipalités

(4) Le conseil d'une municipalité envoie au directeur toute décision issue de l'appel d'un ordre ou d'une ordonnance mentionné au paragraphe (3) aussitôt que possible mais au plus tard le dernier jour du mois civil suivant le mois au cours duquel la décision a été délivrée.

Idem



Application  
of prescribed  
standards

**36.—(1)** The prescribed maintenance standards apply to residential complexes and the rental units located in them if the residential complexes are located in the prescribed areas.

Director to  
receive  
complaints

**(2)** The Director shall receive any written complaint from a current tenant of a rental unit respecting the standard of maintenance that prevails in respect of the rental unit or the residential complex in which it is located, if the prescribed maintenance standards are in force in the area in which the residential complex is located.

Director to  
investigate  
complaints

**(3)** Upon receiving a complaint respecting a residential complex or a rental unit in it, the Director shall cause an inspector to make whatever inspection the Director considers necessary to determine whether the landlord has complied with the prescribed maintenance standards.

Inspector's  
work order

**37.—(1)** If an inspector is satisfied that the landlord of a residential complex has not complied with a prescribed maintenance standard that applies to the residential complex, the inspector may make and give to the landlord a work order requiring the landlord to comply with the prescribed maintenance standard.

Idem

**(2)** The inspector shall set out in the order,

- (a) the municipal address or legal description of the residential complex;
- (b) reasonable particulars of the work to be performed;
- (c) the period within which there must be compliance with the terms of the work order; and
- (d) the time limited for applying under subsection (3) to a Chief Rent Officer for a review of the work order.

Application  
for review

**(3)** If a landlord who has received an inspector's work order is not satisfied with its terms, the landlord may, within fifteen days of the giving of the order, apply to a Chief Rent Officer for a review of the work order.

Stay of  
order

**(4)** An application under subsection (3) operates as a stay of the inspector's work order unless a rent officer orders otherwise.

Order

**(5)** On an application under subsection (3), a rent officer shall, by order,

**36** (1) Les normes d'entretien prescrites s'appliquent aux ensembles d'habitation et aux logements locatifs qui s'y trouvent si les ensembles d'habitation sont situés dans les zones prescrites.

Application  
des normes  
prescrites

**(2)** Le directeur reçoit toute plainte écrite déposée par le locataire actuel d'un logement locatif concernant la norme d'entretien qui a cours dans le logement locatif ou l'ensemble d'habitation où se trouve le logement locatif, si les normes d'entretien prescrites sont en vigueur dans la zone où est situé l'ensemble d'habitation.

Réception des  
plaintes par  
le directeur

**(3)** Lorsqu'il reçoit une plainte à l'égard d'un ensemble d'habitation ou d'un logement locatif qui s'y trouve, le directeur fait effectuer toute inspection qu'il estime nécessaire par un inspecteur afin de déterminer si le locateur s'est conformé aux normes d'entretien prescrites.

Enquête sur  
les plaintes  
par le direc-  
teur

**37** (1) S'il est convaincu que le locateur d'un ensemble d'habitation ne s'est pas conformé à une norme d'entretien prescrite qui s'applique à l'ensemble d'habitation, l'inspecteur peut donner au locateur un ordre d'exécution de travaux lui enjoignant de se conformer à la norme d'entretien prescrite.

Ordre d'exé-  
cution de tra-  
vaux donné  
par l'inspec-  
teur

**(2)** L'inspecteur énonce dans l'ordre ce qui suit :

Idem

- a) l'adresse dans la municipalité de l'ensemble d'habitation, ou la description légale de celui-ci;
- b) une liste suffisamment détaillée des travaux à exécuter;
- c) le délai imparti pour se conformer à l'ordre d'exécution de travaux;
- d) le délai imparti pour présenter, en vertu du paragraphe (3), à un agent principal des loyers une requête en révision de l'ordre d'exécution de travaux.

**(3)** Si le locateur qui a reçu d'un inspecteur un ordre d'exécution de travaux n'est pas satisfait des conditions imposées par l'ordre, il peut, dans les quinze jours après que l'ordre a été donné, présenter à un agent principal des loyers une requête en révision de l'ordre d'exécution de travaux.

Requête en  
révision

**(4)** Une requête visée au paragraphe (3) a pour effet de surseoir à l'ordre d'exécution donné par l'inspecteur, à moins qu'un agent des loyers ne rende une ordonnance à l'effet contraire.

Sursis d'exé-  
cution

**(5)** Par suite d'une requête présentée en vertu du paragraphe (3), un agent des loyers prend, par voie d'ordonnance, l'une des mesures suivantes :

Ordonnance



- (a) confirm or vary the inspector's work order;
- (b) rescind the work order, if he or she finds that the landlord has complied with it;
- (c) quash the work order; or
- (d) dismiss the landlord's application.

Order prohi-  
biting rent  
increase

**38.—(1) The Director shall issue an order prohibiting a rent increase respecting a residential complex or a rental unit in it if,**

- (a) the Director has received a work order under section 34, the period for compliance with it has expired and the Minister has not commenced a motion under the Residential Rent Regulation Act in respect of that work order;
- (b) the Director has received a work order under section 35; or
- (c) a <sup>provincial</sup> work order under section 37 is in effect and the period for compliance with it has expired.

(2) The order shall provide that while it is in effect,

- (a) the rent charged for the residential complex or the rental unit, as the case may be, shall not be increased;
- (b) if a notice of rent increase respecting a rental unit affected by the non-compliance with the work order was given before the order prohibiting a rent increase takes effect and no increase has been taken under that notice, the notice is void; and
- (c) no notice of rent increase shall be given respecting the residential complex or the rental unit, as the case may be.

Effective  
date

(3) Subject to section 39, the order is effective thirty days after it is issued.

Contents of  
order

- (4) The order shall contain,
  - (a) the municipal address or legal description of the rental unit or residential complex affected;
  - (b) reasonable particulars of the work order that is the subject of the order prohibiting the rent increase; and

- a) il confirme ou modifie l'ordre d'exécution de travaux donné par l'inspecteur;
- b) il annule l'ordre d'exécution de travaux, s'il conclut que le locateur s'y est conformé;
- c) il casse l'ordre d'exécution de travaux;
- d) il rejette la requête du locateur.

**38 (1) Le directeur donne un ordre interdisant d'augmenter le loyer à l'égard d'un ensemble d'habitation ou d'un logement locatif qui s'y trouve si, selon le cas :**

Ordre interdisant d'augmenter le loyer

- a) le directeur a reçu un arrêté ou un ordre d'exécution de travaux visé à l'article 34, le délai imparti pour s'y conformer a expiré et le ministre n'a pris aucune initiative en vertu de la *Loi sur la réglementation des loyers d'habitation* à l'égard de cet arrêté ou de cet ordre d'exécution de travaux;
- b) le directeur a reçu un ordre ou une ordonnance d'exécution de travaux visé à l'article 35;
- c) un ordre d'exécution de travaux visé à l'article 37 est en vigueur et le délai imparti pour s'y conformer a expiré.

(2) L'ordre prévoit ce qui suit pour la période pendant laquelle il est en vigueur :

Idem

- a) le loyer demandé pour l'ensemble d'habitation ou le logement locatif, selon le cas, ne doit pas être augmenté;
- b) si un avis d'augmentation de loyer à l'égard d'un logement locatif touché par l'inobservation de l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux a été donné avant que l'ordre interdisant d'augmenter le loyer n'entre en vigueur et qu'aucune augmentation n'a été perçue aux termes de cet avis, l'avis est nul;
- c) aucun avis d'augmentation de loyer ne doit être donné à l'égard de l'ensemble d'habitation ou du logement locatif, selon le cas.

(3) Sous réserve de l'article 39, l'ordre est en vigueur trente jours après qu'il est donné.

Ordre en  
vigueur

(4) L'ordre comprend les renseignements suivants :

Contenu de  
l'ordre

- a) l'adresse dans la municipalité du logement locatif ou de l'ensemble d'habitation visé, ou la description légale de celui-ci;
- b) des renseignements suffisants concernant l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux qui fait l'objet de l'ordre interdisant d'augmenter le loyer;

- (c) the fact that the order prohibiting the rent increase is effective thirty days after it is issued unless it is stayed or rescinded before that time.

Order stayed

**39.—(1)** The Director shall stay an order prohibiting a rent increase if he or she is advised before the order is issued that an appeal of the work order that is the subject of the order prohibiting a rent increase has been filed.

Effect of staying

(2) If an order prohibiting a rent increase respecting a residential complex or a rental unit in it has been stayed, the landlord may increase the rent charged for any affected rental unit or give a notice of rent increase respecting any affected rental unit in accordance with this Act.

Stay lifted

(3) The Director shall lift a stay of an order prohibiting a rent increase if the appeal of the work order is withdrawn or discontinued or if,

- (a) the Director receives the decision of the appeal of the work order that is the subject of the order prohibiting the rent increase;
- (b) the appeal decision confirms the work order, changes its terms or changes the time for complying with it;
- (c) all avenues of further appeal are exhausted or the Director does not receive a notice of appeal within fifteen days after the date the appeal decision is issued; and
- (d) if the appeal decision changes the time for complying with the work order, the new time period has expired.

Amendment

(4) If the appeal decision changes the terms of the work order, the Director may amend the order prohibiting the rent increase to reflect that change.

Effective date

(5) If the appeal decision changes the time for complying with the work order to a period that expires more than thirty days after the order prohibiting a rent increase was issued and the Director lifts the stay of the order prohibiting a rent increase, for the purposes of subsection (6), the order prohibiting a rent increase shall be deemed to be

- (c) l'énoncé du fait que l'ordre interdisant d'augmenter le loyer est en vigueur trente jours après qu'il est donné, à moins qu'il ne soit suspendu ou annulé entre temps.

Ordre suspendu

**39 (1)** Le directeur surseoit à l'ordre interdisant d'augmenter le loyer s'il est avisé avant que l'ordre ne soit délivré du fait qu'un appel de l'arrêté, de l'ordre ou de l'ordonnance d'exécution de travaux qui fait l'objet de l'ordre interdisant d'augmenter le loyer a été déposé.

Effet du sursis

(2) S'il a été sursis à l'ordre interdisant d'augmenter le loyer à l'égard d'un ensemble d'habitation ou d'un logement locatif qui s'y trouve, le locateur peut augmenter le loyer demandé pour un logement locatif touché ou donner un avis d'augmentation de loyer à l'égard d'un logement locatif touché conformément à la présente loi.

Sursis levé

(3) Le directeur lève le sursis de l'ordre interdisant d'augmenter le loyer si l'appel de l'arrêté, de l'ordre ou de l'ordonnance d'exécution de travaux est retiré ou fait l'objet d'un désistement ou si les conditions suivantes sont réunies :

- a) le directeur reçoit la décision issue de l'appel de l'arrêté, de l'ordre ou de l'ordonnance d'exécution de travaux qui fait l'objet de l'ordre interdisant d'augmenter le loyer;
- b) la décision issue de l'appel confirme l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux, ou en change les termes ou le délai imparti pour s'y conformer;
- c) toutes les autres possibilités d'appel sont épuisées ou le directeur ne reçoit pas d'avis d'appel dans les quinze jours qui suivent la date à laquelle la décision issue de l'appel est rendue;
- d) si la décision issue de l'appel change le délai imparti pour se conformer à l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux, ce nouveau délai a expiré.

Modification

(4) Si la décision issue de l'appel change les termes de l'arrêté, de l'ordre ou de l'ordonnance d'exécution de travaux, le directeur peut modifier l'ordre interdisant d'augmenter le loyer pour refléter ce changement.

Date d'entrée en vigueur

(5) Si la décision issue de l'appel change le délai imparti pour se conformer à l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux de sorte que ce délai expire plus de trente jours après que l'ordre interdisant d'augmenter le loyer a été donné et que le directeur lève le sursis de l'ordre interdisant d'augmenter le loyer, l'ordre interdisant d'augmenter le loyer est réputé en vigueur,



effective on the day the Director lifts the stay and not as provided in clause (6) (a). ➡

When stay  
lifted

(6) If the Director lifts the stay of an order prohibiting a rent increase,

- (a) the order shall be deemed to have been effective as of the day that is thirty days after it was issued;
- (b) any notice of rent increase respecting an affected rental unit issued during the period that the order would have been effective but for the stay shall be deemed to be void; and
- (c) any increase in the rent charged for an affected rental unit that took effect during the period that the order would have been effective but for the stay shall be deemed to be rent charged in excess of that permitted to be charged.

No offence

(7) Subsection (6) does not operate to make a landlord who increased the rent charged for a rental unit in accordance with subsection (2) guilty of an offence.

Rescission of  
order

**40.**—(1) The Director shall issue a notice rescinding an order prohibiting a rent increase if,

- (a) he or she receives notice from the issuer within thirty days after the day the order prohibiting the rent increase is issued and that notice states that the work order was lifted before the day the order prohibiting the rent increase came into effect;
- (b) he or she receives a decision on an appeal of a work order that is the subject of the order prohibiting a rent increase and the decision quashes or rescinds the work order; or ➡
- (c) he or she is satisfied within thirty days after the day the order prohibiting the rent increase is issued that there is a clerical error in it and that if the order is not rescinded, a person will be unfairly prejudiced because of the clerical error.

(2) The Director may issue a new order prohibiting a rent increase if he or she rescinds an order because of a clerical error and the period for compliance with the work order has expired. ➡

pour l'application du paragraphe (6), le jour où le directeur lève le sursis et non comme le prévoit l'alinéa (6) a). ➡

(6) Si le directeur lève le sursis de l'ordre interdisant d'augmenter le loyer :

Effet de la  
levée

- a) l'ordre est réputé en vigueur depuis le jour qui tombe trente jours après qu'il a été donné;
- b) tout avis d'augmentation de loyer délivré à l'égard d'un logement locatif touché durant la période pendant laquelle l'ordre aurait été en vigueur si ce n'avait été du sursis est réputé nul;
- c) toute augmentation du loyer demandé pour un logement locatif touché qui a pris effet durant la période pendant laquelle l'ordre aurait été en vigueur si ce n'avait été du sursis est réputée un montant de loyer demandé au-delà du loyer qu'il est permis de demander.

(7) Le paragraphe (6) n'a pas pour effet de rendre un locateur qui augmente le loyer demandé pour un logement locatif conformément au paragraphe (2) coupable d'une infraction.

Aucune  
infraction

**40** (1) Le directeur délivre un avis annulant l'ordre interdisant d'augmenter le loyer si, selon le cas :

Annulation  
de l'ordre

- a) il reçoit un avis du délivreur dans les trente jours qui suivent le jour où l'ordre interdisant d'augmenter le loyer a été donné et que cet avis énonce que l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux a été retiré avant le jour où l'ordre interdisant d'augmenter le loyer est entré en vigueur;
- b) il reçoit la décision d'un appel d'un arrêté, d'un ordre ou d'une ordonnance d'exécution de travaux qui fait l'objet de l'ordre interdisant d'augmenter le loyer et que la décision casse ou annule l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux; ➡
- c) il est convaincu, dans les trente jours qui suivent le jour où l'ordre interdisant d'augmenter le loyer est donné, que celui-ci contient une erreur d'écriture et que, si l'ordre n'était pas annulé, il serait injustement porté atteinte à une personne en raison de l'erreur d'écriture.

(2) Le directeur peut donner un nouvel ordre interdisant d'augmenter le loyer s'il annule un ordre en raison d'une erreur d'écriture et que le délai imparti pour se conformer à l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux a expiré. ➡

Idem



Withdrawal  
of order

**41.—(1)** The Director shall issue a notice withdrawing an order prohibiting a rent increase if he or she receives notice from the issuer after it comes into effect and that notice states that the work order was lifted.

Idem

(2) A notice under this section shall provide that the order is of no further effect as of the date the notice is issued.

Effect of  
notice

(3) A landlord who receives a notice withdrawing an order under this section may issue a notice of rent increase and increase rent in accordance with this Act any time after the notice is issued.

Inspection  
required

**42.—(1)** On the written request of a landlord, the Director shall cause an inspector to make whatever inspection the Director considers necessary to determine whether a work order that was issued under section 37 of this Act or under the *Residential Rent Regulation Act* has been complied with.

Notice to  
Director

(2) If the inspector determines that the work order has been complied with, the inspector shall lift the work order and, if the Director has issued an order prohibiting a rent increase because of it, shall notify the Director in writing that the work order has been lifted.

#### FAILURE TO FILE INFORMATION

Registrar's  
application

**43.—(1)** The Registrar may apply to a Chief Rent Officer for an order prohibiting a rent increase for failure to file information under section 104, 107 or 108.

Order

(2) If a rent officer finds that information required to be filed under section 104, 107 or 108 has not been filed, the rent officer may by order provide that,

- (a) if any notice of rent increase respecting a rental unit in the residential complex was given before the order is issued and no increase has been taken under that notice, the notice is void;
- (b) no notice of rent increase shall be given respecting a rental unit in the residential complex; and
- (c) the rent charged for a rental unit in the residential complex shall not be increased.

Idem

(3) The rent officer may provide a date in the order on which it is to expire.

**41** (1) Le directeur délivre un avis retirant l'ordre interdisant d'augmenter le loyer s'il reçoit du délivreur, après que l'ordre est entré en vigueur, un avis énonçant que l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux a été retiré.

Retrait de  
l'ordre

(2) L'avis prévu au présent article prévoit que l'ordre n'a plus aucun effet à compter de la date à laquelle l'avis est délivré.

Idem

(3) Le locateur qui reçoit un avis retirant un ordre, délivré aux termes du présent article, peut délivrer un avis d'augmentation de loyer et augmenter le loyer conformément à la présente loi, à tout moment après que l'avis est délivré.

Effet de l'avis

**42** (1) À la demande écrite du locateur, le directeur fait effectuer toute inspection qu'il estime nécessaire par un inspecteur afin de déterminer si un ordre d'exécution de travaux qui a été donné en vertu de l'article 37 de la présente loi ou un arrêté ou un ordre d'exécution de travaux qui a été pris ou donné en vertu de la *Loi sur la réglementation des loyers d'habitation* a été observé.

Inspection  
exigée

(2) S'il détermine que l'arrêté ou l'ordre d'exécution de travaux a été observé, l'inspecteur le retire et, si le directeur a donné un ordre interdisant d'augmenter le loyer en raison de cet arrêté ou de cet ordre, il avise le directeur par écrit que l'arrêté ou l'ordre d'exécution de travaux a été retiré.

Avis au direc-  
teur

#### DÉFAUT DE DÉCLARER DES RENSEIGNEMENTS

**43** (1) Le registrateur peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance interdisant d'augmenter le loyer pour ne pas avoir déclaré des renseignements aux termes de l'article 104, 107 ou 108.

Requête du  
registrateur

(2) S'il conclut que des renseignements qui devaient être déclarés aux termes de l'article 104, 107 ou 108 n'ont pas été déclarés, l'agent des loyers peut, par voie d'ordonnance, prévoir ce qui suit :

Ordonnance

- a) si un avis d'augmentation de loyer à l'égard d'un logement locatif de l'ensemble d'habitation a été donné avant que l'ordonnance ne soit rendue et qu'aucune augmentation n'a été perçue aux termes de cet avis, l'avis est nul;
- b) aucun avis d'augmentation de loyer ne doit être donné à l'égard d'un logement locatif de l'ensemble d'habitation;
- c) le loyer demandé pour un logement locatif de l'ensemble d'habitation ne doit pas être augmenté.

(3) L'agent des loyers peut fixer dans l'ordonnance la date d'expiration de celle-ci.

Idem

Contents of

(4) The order shall contain the municipal address or legal description of the rental unit or residential complex affected and reasonable particulars of the information to be filed.

Notice of withdrawal

(5) If the landlord files the information that is required, the Registrar shall notify the landlord and the tenants that the order prohibiting a rent increase is withdrawn and of no further effect.

Effect of notice

(6) A landlord who receives a notice withdrawing an order prohibiting a rent increase may issue a notice of rent increase and increase rent in accordance with this Act any time after the notice is issued.

Application for withdrawal

**44.—**(1) A landlord may at any time apply to a Chief Rent Officer for an order withdrawing an order prohibiting a rent increase under section 43.

Order

(2) On an application under this section, the rent officer may order that the order be withdrawn if he or she is satisfied that the landlord has filed the information required.

## SEPARATE CHARGES

**45.—**(1) In this section,

“basic unit rent” means the amount obtained when all separate charges are subtracted from the rent; (“loyer de base du logement”)

“separate charges” means that part of the rent that a landlord charges separately for any service, facility, privilege, accommodation or thing that the landlord provides for the tenant in respect of the tenant’s occupancy of the rental unit. (“charges distinctes”)

Elements of maximum rent set out separately

(2) In an order in which a rent officer sets out or declares the maximum rent for a rental unit, he or she may separately set out or declare the maximum basic unit rent and the maximum separate charges.

Exception

(3) Despite subsection (2), the rent officer shall not set out capital components as separate charges.

Equalization of separate charges

(4) In an order in which a rent officer sets out or declares the maximum rent for a rental unit, he or she may provide for the immediate equalization of separate charges for parking spaces or other prescribed separate charges.

Adding or discontinuing services, etc.

**46.—**(1) The maximum rent which may be charged for a rental unit shall be increased or decreased in the prescribed

(4) L’ordonnance contient l’adresse dans la municipalité du logement locatif ou de l’ensemble d’habitation visé, ou la description légale de celui-ci, et une liste suffisamment détaillée des renseignements à déclarer.

Contenu de l’ordonnance

(5) Si le locateur déclare les renseignements exigés, le registrateur avise le locateur et les locataires que l’ordonnance interdisant d’augmenter le loyer est retirée et n’a plus aucun effet.

Avis de retrait

(6) Le locateur qui reçoit un avis retirant une ordonnance interdisant d’augmenter le loyer peut délivrer un avis d’augmentation de loyer et augmenter le loyer conformément à la présente loi, à tout moment après que l’avis est délivré.

Effet de l’avis

**44** (1) Le locateur peut, à tout moment, demander par voie de requête à un agent principal des loyers de rendre une ordonnance retirant une ordonnance interdisant d’augmenter le loyer visée à l’article 43.

Requête visant un retrait

(2) Par suite d’une requête présentée en vertu du présent article, l’agent des loyers peut ordonner le retrait de l’ordonnance s’il est convaincu que le locateur a déclaré les renseignements exigés.

Ordonnance

## CHARGES DISTINCTES

**45** (1) Les définitions qui suivent s’appliquent au présent article.

Définitions

«charges distinctes» La portion du loyer que le locateur demande séparément pour les services, installations, privilèges, commodités ou choses qu’il fournit au locataire à l’égard de l’occupation par ce dernier du logement locatif. («separate charges»)

«loyer de base du logement» Le montant obtenu lorsque toutes les charges distinctes sont soustraites du loyer. («basic unit rent»)

(2) Dans une ordonnance dans laquelle il fixe ou déclare le loyer maximal d’un logement locatif, l’agent des loyers peut fixer ou déclarer séparément le montant maximal du loyer de base du logement et les charges distinctes maximales.

Éléments du loyer maximal énoncés séparément

(3) Malgré le paragraphe (2), l’agent des loyers ne peut pas fixer d’éléments d’immobilisations comme des charges distinctes.

Exception

(4) Dans une ordonnance dans laquelle il fixe ou déclare le loyer maximal d’un logement locatif, l’agent des loyers peut prévoir la péréquation immédiate des charges distinctes pour les places de stationnement ou des autres charges distinctes qui sont prescrites.

Péréquation des charges distinctes

**46** (1) Le loyer maximal qui peut être demandé pour un logement locatif est augmenté ou réduit de la manière prescrite si le

Services ajoutés ou retirés



manner if the landlord and tenant agree that the landlord will provide or discontinue the provision of any of the following in respect of the tenant's occupancy of the rental unit:

1. A parking space.
2. A service, facility, privilege, accommodation or thing as may be prescribed.
3. A service, facility, privilege, accommodation or thing for which a separate charge is set out in respect of the residential complex or a rental unit in it in an order under this Act, the *Residential Rent Regulation Act*, *The Residential Premises Rent Review Act*, 1975 (2nd Session) or Part XI of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980.

Coerced agreement not enforceable

(2) If an order under section 33 determines that an agreement under subsection (1) has been entered into as a result of coercion or as a result of a false, incomplete or misleading representation by the landlord or an agent of the landlord, the agreement is not enforceable.

Twelve-month rule

(3) Section 6 does not apply to an increase in maximum rent under this section.

## PART II PROCEDURE

Part I applications

47. All applications under Part I are subject to the procedural rules set out in this Part.

Application to region

48.—(1) Where Part I provides that an application is to be made to a Chief Rent Officer, it shall be made to the Chief Rent Officer for the region in which the residential complex to which it relates is located.

Where proceedings held

(2) The Chief Rent Officer who receives an application shall assign the application to the region in which it is to be determined.

Method of giving notice, etc.

49.—(1) When this Act permits or requires a notice or document to be given to a person other than an employee or agent of the Ministry exercising a power or duty under this Act, the notice or document is sufficiently given,

- (a) by handing it to the person;

locateur et le locataire s'entendent pour que le locateur fournisse ou cesse de fournir, à l'égard de l'occupation du logement locatif par le locataire, l'un quelconque des éléments suivants :

1. Une place de stationnement.
2. Un service, une installation, un privilège, une commodité ou une chose qui peuvent être prescrits.
3. Un service, une installation, un privilège, une commodité ou une chose pour lesquels une charge distincte à l'égard de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve est fixée dans un arrêté pris, un ordre donné ou une ordonnance rendue en vertu de la présente loi, de la *Loi sur la réglementation des loyers d'habitation*, de la loi intitulée *The Residential Premises Rent Review Act*, 1975 (2nd Session) ou de la partie XI de la loi intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980.

(2) Si une ordonnance rendue en vertu de l'article 33 porte qu'une entente visée au paragraphe (1) a été conclue sous la contrainte ou par suite d'une déclaration fausse, incomplète ou trompeuse du locateur ou de son représentant, l'entente n'est pas exécutoire.

(3) L'article 6 ne s'applique pas à l'augmentation du loyer maximal visée au présent article.

Entente conclue sous la contrainte non exécutoire

Règle des douze mois

## PARTIE II PROCÉDURE

47 Toutes les requêtes présentées en vertu de la partie I sont assujetties aux règles de procédure énoncées dans la présente partie.

48 (1) Lorsque la partie I prévoit qu'une requête doit être présentée à un agent principal des loyers, la requête est présentée à l'agent principal des loyers de la région où est situé l'ensemble d'habitation auquel elle se rapporte.

(2) L'agent principal des loyers qui reçoit une requête la transmet à la région dans laquelle il sera statué sur la question.

49 (1) Lorsque la présente loi permet ou exige qu'un avis ou un document soit donné à une personne autre qu'un employé ou représentant du ministère exerçant un pouvoir ou une fonction en vertu de la présente loi, l'avis ou le document est valablement donné de l'une des façons suivantes :

- a) en le donnant en main propre à la personne;

Requêtes présentées en vertu de la partie I

Requête au niveau régional

Instances dans une région

Façons de donner un avis



- (b) if the person is a landlord, by handing it to any employee of the landlord exercising authority in respect of the residential complex;
- (c) if the person is a tenant, subtenant or occupant, by handing it to an apparently adult person in the rental unit;
- (d) by leaving it in the mail box where mail is ordinarily delivered to the person;
- (e) where there is no mail box, by leaving it at the place where mail is ordinarily delivered to the person; or
- (f) by sending it by mail to the last known address where the person resides or carries on business.

Idem

(2) When this Act permits or requires a notice or document to be given to an employee or agent of the Ministry exercising a power or duty under this Act, the notice or document is sufficiently given,

- (a) by handing it to an employee or agent of the Ministry at the office for the region in which the residential complex to which it relates is located; or
- (b) by sending it by mail to the office for the region in which the residential complex is located. ▲

Notice given by mail

(3) A notice or document given by mail shall be deemed to have been given on the fifth day after mailing.

Written directions

(4) A rent officer may in writing direct that a notice or document be given in a manner other than as provided in this section.

Actual notice is sufficient

(5) Even if a notice or document is not given in accordance with this section, it shall be deemed to have been validly given if it is proven that its contents actually came to the attention of the person for whom it was intended within the time required by this Act.

Computation of time

(6) Time shall be computed in accordance with the prescribed rules.

Ministry notice to tenant

**50.**—(1) Subject to subsection (2), when this Act permits or requires an employee or agent of the Ministry exercising a power or duty under this Act to give a notice or document to the tenant of a rental unit, the notice or document may be given to the occupant of the rental unit.

Idem

(2) If the tenant has notified the Ministry in writing of an address other than that of

- b) si la personne est un locateur, en le donnant à tout employé du locateur exerçant une autorité à l'égard de l'ensemble d'habitation;
- c) si la personne est un locataire, un sous-locataire ou un occupant, en le donnant à une personne qui paraît majeure et qui est dans le logement locatif;
- d) en le laissant dans la boîte aux lettres où la personne reçoit ordinairement son courrier;
- e) s'il n'y a pas de boîte aux lettres, en le laissant à l'endroit où la personne reçoit ordinairement son courrier;
- f) en l'expédiant par la poste à la dernière adresse connue où la personne réside ou fait affaire.

Idem

(2) Lorsque la présente loi permet ou exige qu'un avis ou un document soit donné à un employé ou représentant du ministère exerçant un pouvoir ou une fonction en vertu de la présente loi, l'avis ou le document est valablement donné de l'une des façons suivantes :

- a) en le donnant à un employé ou représentant du ministère au bureau de la région où est situé l'ensemble d'habitation auquel il se rapporte;
- b) en l'expédiant par la poste au bureau de la région où est situé l'ensemble d'habitation. ▲

(3) L'avis ou le document donné par la poste est réputé avoir été donné le cinquième jour après la mise à la poste.

Avis donné par la poste

(4) L'agent des loyers peut ordonner par écrit qu'un avis ou un document soit donné d'une façon autre que celle prévue au présent article.

Directives écrites

(5) Même si un avis ou un document n'est pas donné conformément au présent article, il est réputé avoir été donné de façon valable s'il est prouvé que le destinataire a réellement pris connaissance de son contenu dans le délai imparti par la présente loi.

Connaissance réelle du contenu de l'avis

(6) Les délais sont calculés conformément aux règles prescrites.

Calcul des délais

**50** (1) Sous réserve du paragraphe (2), lorsque la présente loi permet ou exige qu'un employé ou représentant du ministère exerçant un pouvoir ou une fonction en vertu de la présente loi donne un avis ou un document au locataire d'un logement locatif, l'avis ou le document peut être donné à l'occupant du logement locatif.

Avis du ministère au locataire

(2) Si le locataire a avisé par écrit le ministère que les avis ou documents doivent

Idem

the rental unit where notices or documents are to be given, an employee or agent of the Ministry exercising a power or duty under this Act shall give the notice or document to the tenant at the address given in the notice.

#### PARTIES

Parties

**51.—**(1) The parties to an application are the applicant, other than the Registrar or Director, any person entitled, other than under subsection 55 (4), to receive a copy of the application and any person added as a party by a rent officer.

Including a party

(2) If a rent officer believes that a person who should be included as a party has not been so included, the rent officer shall require that the person be substituted or added as a party to the proceeding.

Correctly naming a party

(3) If a rent officer believes that a party has been incorrectly named, the rent officer shall require that the person be correctly named.

Removing a party

(4) If a rent officer believes that a person who has been included as a party should not be included as a party, the rent officer shall require that the person be removed as a party to the proceeding.

#### APPLICATION AND RESPONSE

Form of application

**52.—**(1) An application made by a person other than the Registrar or the Director shall be made in the prescribed form and shall be signed by the applicant.

Agent

(2) An applicant may give an agent written authorization to sign the application and, if the applicant does so, a rent officer may require a copy of the authorization to be filed.

If name of tenant not known

(3) If a landlord who makes an application does not know the name of a tenant directly affected by the application, the name of the tenant may be shown in the application as "tenant" or "locataire" and all orders shall be binding on the tenant occupying the rental unit as if the tenant had been correctly named.

If name of landlord not known

(4) If a tenant who makes an application does not know the name of the landlord, the name of the landlord may be shown in the application as "landlord" or "locateur" and all orders shall be binding on the landlord as if the landlord had been correctly named.

Supporting material

**53.** The applicant shall file with the application,

- (a) in the case of an application under section 13 (application for increase above guideline), a cost statement in the prescribed form and information for the

être donnés à une adresse autre que celle du logement locatif, l'employé ou le représentant du ministère exerçant un pouvoir ou une fonction en vertu de la présente loi donne l'avis ou le document au locataire à l'adresse indiquée dans l'avis.

#### PARTIES

Parties

**51** (1) Les parties à une requête sont le requérant, autre que le registrateur ou le directeur, toute personne qui a le droit, autrement qu'en vertu du paragraphe 55 (4), de recevoir une copie de la requête et toute personne mise en cause par l'agent des loyers.

Mise en cause

(2) Si l'agent des loyers croit qu'une personne qui devrait être mise en cause ne l'a pas été, il exige que la personne remplace une partie à l'instance ou qu'elle y soit mise en cause.

Partie nommée incorrectement

(3) Si l'agent des loyers croit qu'une partie a été nommée incorrectement, il exige que cette personne soit nommée correctement.

Retrait d'une partie

(4) Si l'agent des loyers croit qu'une personne qui a été mise en cause ne devrait pas l'être, il exige le retrait de cette personne comme partie à l'instance.

#### REQUÊTE ET RÉPONSE

Forme de la requête

**52** (1) Une requête présentée par une personne autre que le registrateur ou le directeur est rédigée selon la formule prescrite et elle est signée par le requérant.

Représentant

(2) Le requérant peut donner à un représentant l'autorisation, par écrit, de signer la requête et, le cas échéant, l'agent des loyers peut exiger que soit déposée une copie de l'autorisation.

Cas où le nom du locataire n'est pas connu

(3) Si le locateur qui présente une requête ne connaît pas le nom d'un locataire directement concerné par la requête, le locataire peut y être désigné sous le nom de «locataire» ou «tenant» et toutes les ordonnances lient le locataire occupant le logement locatif comme s'il avait été nommé correctement.

Cas où le nom du locateur n'est pas connu

(4) Si le locataire qui présente une requête ne connaît pas le nom du locateur, le locateur peut y être désigné sous le nom de «locateur» ou «landlord» et toutes les ordonnances lient le locateur comme s'il avait été nommé correctement.

Pièces justificatives

**53** Le requérant dépose avec la requête les pièces justificatives suivantes :

- a) dans le cas d'une requête présentée en vertu de l'article 13 (requête en vue d'obtenir une augmentation supérieure au taux légal), un état des dépenses



prescribed periods concerning the operating costs for municipal taxes, hydro, water and heating;

- (b) the prescribed material; and
- (c) all other written evidence that the applicant relies upon in support of the application.

When appli-  
cation  
complete

**54.**—(1) An application is not complete unless all of the material referred to in clauses 53 (a) and (b) has been filed.

Notice if  
incomplete

(2) If the applicant files an application that is not complete, a rent officer shall notify the applicant in writing of that fact.

Idem

(3) The notice shall inform the applicant that,

- (a) the applicant may file further material to complete the application within the period set out in the notice; and
- (b) if the applicant does not do so within that period, the proceeding will be discontinued.

Idem

(4) The period set out in clause (3) (a) shall not exceed thirty days and despite section 60, shall not be extended by a rent officer.

Proceeding  
discontinued

(5) A rent officer shall discontinue a proceeding if a notice has been issued under subsection (2) and the applicant has not filed the required material within the period set out in the notice.

Copy of  
application  
to parties

**55.**—(1) A landlord who makes an application shall, within ten days of filing it, give a copy of it to any tenant, subtenant or occupant who, at the time the application is made, is directly affected by the issues raised in it.

Idem

(2) A tenant or other person who makes an application shall, within ten days of filing it, give a copy of the application to any person who is directly affected by the issues raised in it.

Idem

(3) If a rent officer adds other parties to a tenant's application under subsection 23 (3), the rent officer, rather than the tenant, shall give a copy of the application to those parties.

If new land-  
lord or new  
tenant

(4) If a landlord or tenant is succeeded by a new landlord or tenant after an application is made and before an order is made respecting it, the applicant shall within ten days of becoming aware of the change give the new landlord or tenant a copy of the application.

rédigé selon la formule prescrite et des renseignements, pour les périodes prescrites, concernant les frais d'exploitation à l'égard des impôts municipaux, de l'électricité, de l'eau et du chauffage;

- b) les pièces prescrites;
- c) tous les autres éléments de preuve écrits sur lesquels le requérant fonde sa requête.

**54** (1) La requête n'est pas complète à moins que toutes les pièces mentionnées aux alinéas 53 a) et b) n'aient été déposées.

Requête com-  
plète

(2) Si le requérant dépose une requête qui n'est pas complète, l'agent des loyers l'en avise par écrit.

Avis

(3) L'avis informe le requérant de ce qui suit :

Idem

a) le requérant peut déposer d'autres pièces pour compléter la requête dans le délai imparti dans l'avis;

b) si le requérant ne complète pas la requête dans ce délai, il sera mis fin à l'instance.

(4) Le délai prévu à l'alinéa (3) a) ne doit pas dépasser trente jours et, malgré l'article 60, l'agent des loyers ne peut pas le proroger.

Idem

(5) L'agent des loyers met fin à l'instance si un avis a été délivré aux termes du paragraphe (2) et que le requérant n'a pas déposé les pièces requises dans le délai imparti dans l'avis.

Cessation de  
l'instance

**55** (1) Le locateur qui présente une requête donne, dans les dix jours qui suivent le dépôt de la requête, une copie de celle-ci à tout locataire, sous-locataire ou occupant qui, au moment où est présentée la requête, est directement concerné par les questions qui y sont soulevées.

Copie de la  
requête aux  
parties

(2) Le locataire ou une autre personne qui présente une requête donne, dans les dix jours qui suivent le dépôt de la requête, une copie de celle-ci à quiconque est directement concerné par les questions qui y sont soulevées.

Idem

(3) Si l'agent des loyers ajoute d'autres parties à la requête du locataire aux termes du paragraphe 23 (3), l'agent des loyers, et non le locataire, donne une copie de la requête à ces parties.

Idem

(4) Si un locateur ou un locataire est remplacé par un nouveau locateur ou un nouveau locataire après que la requête a été présentée mais avant qu'une ordonnance ne soit rendue à l'égard de celle-ci, le requérant en donne une copie au nouveau locateur ou

Nouveau  
locateur ou  
nouveau loca-  
taire



Written  
directions

(5) A rent officer may give written directions concerning the giving of copies of an application and a person who complies with those directions shall be deemed to comply with this section.

Amending  
applications

56. If a rent officer believes that an amendment to an application is justified and fair, the rent officer may direct the application be amended accordingly.

Withdrawing  
applications

57.—(1) An applicant may withdraw an application within thirty days after the acknowledgment notice is issued in respect of it.

Idem

(2) An application or consent may be withdrawn after the time referred to in subsection (1) only with the consent of a rent officer and he or she may impose conditions on which the consent is given.

#### PROCEDURE BEFORE HEARING OR REVIEW

Acknowledg-  
ment notice

58. Upon receiving a complete application, the Chief Rent Officer shall give the parties an acknowledgment notice advising them,

- (a) that the application has been filed;
- (b) that the materials filed with it are available for inspection;
- (c) of the right of parties to file submissions;
- (d) of the right of the parties to request a hearing, a pre-hearing conference or administrative review, as the case may be, as set out in sections 61 to 64;
- (e) that there will be no right of appeal to the order made respecting the application, except on a matter of law; and
- (f) of any other matter the Chief Rent Officer considers appropriate.

Parties may  
examine  
material

59.—(1) All parties to a proceeding may examine all material filed with the Chief Rent Officer or a rent officer respecting an application and the Chief Rent Officer or rent officer shall make that material available for examination.

Written  
submissions

(2) Any person affected by an application, other than the applicant, may make written submissions in respect of the application and the material filed in support of it and shall be given at least fifty-five days from the date the acknowledgment notice is issued to do so.

au nouveau locataire dans les dix jours après qu'il a pris connaissance du changement.

(5) L'agent des loyers peut donner des directives écrites concernant la remise de copies d'une requête, et la personne qui se conforme à ces directives est réputée se conformer au présent article.

Directives  
écrites

56 Si l'agent des loyers croit qu'une modification à une requête est justifiée et équitable, il peut ordonner que la requête soit modifiée en conséquence.

Modification  
des requêtes

57 (1) Le requérant peut se désister de sa requête dans les trente jours qui suivent la délivrance de l'avis accusant réception de celle-ci.

Désistement

(2) Après l'expiration du délai visé au paragraphe (1), une requête ne peut faire l'objet d'un désistement et un consentement ne peut être retiré qu'avec le consentement de l'agent des loyers qui peut assortir son consentement de conditions.

Idem

#### PROCÉDURE PRÉALABLE À L'AUDIENCE OU À LA RÉVISION

58 Lorsqu'il reçoit une requête complète, l'agent principal des loyers donne aux parties un avis accusant réception de la requête les avisant de ce qui suit :

Avis accusant  
réception

- a) la requête a été déposée;
- b) les pièces déposées avec celle-ci sont disponibles aux fins d'inspection;
- c) les parties ont le droit de déposer des observations;
- d) les parties ont le droit de demander une audience, une conférence préparatoire à l'audience ou une révision administrative, selon le cas, tel que l'énoncent les articles 61 à 64;
- e) il n'existe aucun droit d'appel de l'ordonnance rendue à l'égard de la requête, sauf sur une question de droit;
- f) toute autre question que l'agent principal des loyers considère appropriée.

59 (1) Toutes les parties à une instance peuvent examiner toutes les pièces déposées auprès de l'agent principal des loyers ou d'un agent des loyers à l'égard d'une requête. L'agent principal des loyers ou l'agent des loyers met ces pièces à la disposition des parties aux fins d'examen.

Examen des  
pièces par les  
parties

(2) Quiconque, autre que le requérant, est concerné par une requête, peut présenter des observations par écrit au sujet de la requête et des pièces déposées à l'appui de celle-ci, et a au moins cinquante-cinq jours à partir de la date de délivrance de l'avis accusant réception de la requête pour le faire.

Observations  
par écrit

Extension  
of time

**60.**—(1) A rent officer may extend or abridge the time for making an application, for giving a copy of an application to a party, for making submissions or for filing a document.

Idem

(2) The rent officer may attach whatever conditions to the extension or abridgement that he or she considers fair.

Idem

(3) A rent officer may extend the time for doing something even if the time for doing it has expired and may abridge time for doing something even if the time for commencing it has passed.

Notice

(4) A rent officer shall give all affected parties written notice of an extension or abridgement of time.

Effect of  
extension of  
time

(5) If a rent officer extends or abridges time, he or she shall notify the parties affected by the application of the new filing date and of any resulting new times for making submissions.

## RIGHT TO A HEARING

Application

**61.**—(1) This section applies to all applications under section 13 or 23 that involve more than one rental unit and that are based in whole or in part,

- (a) in the case of an application under section 13, on a capital expenditure as set out in section 15, 16 or 17; or
- (b) in the case of an application under section 23, on inadequate maintenance or repair or a discontinuance or reduction in services and facilities, as set out in section 25 or 26.

Hearing to  
be held

(2) Subject to subsection 63 (1), a hearing shall be held unless all of the parties to the application request that the proceeding be determined by administrative review in accordance with this section.

Request for  
administra-  
tive review

(3) An applicant who wants a proceeding to be determined by administrative review shall request administrative review in the application.

Idem

(4) Any other party to a proceeding may request that the proceeding be determined by administrative review by written notice to the Chief Rent Officer given not later than fifteen days after the date the acknowledgment notice is issued.

Extend time

(5) A rent officer may extend the time for any party to request administrative review at any time before a notice of hearing is issued.

**60** (1) L'agent des loyers peut proroger ou abréger le délai imparti pour présenter une requête, pour donner une copie de la requête à une partie, pour présenter des observations ou pour déposer un document.

Prorogation  
des délais

(2) L'agent des loyers peut assortir la prorogation ou l'abrégement des conditions qu'il estime justes.

Idem

(3) L'agent des loyers peut proroger le délai imparti pour faire quelque chose, même si celui-ci a expiré, et il peut abréger le délai imparti pour faire quelque chose, même si le moment prévu pour commencer à le faire est passé.

Idem

(4) L'agent des loyers donne à toutes les parties concernées un avis écrit de la prorogation ou de l'abrégement du délai.

Avis

(5) S'il proroge ou abrège un délai, l'agent des loyers avise les parties concernées par la requête de la nouvelle date de dépôt et des nouveaux délais de présentation des observations qui en résultent.

Effet de la  
prorogation  
des délais

## DROIT À UNE AUDIENCE

**61** (1) Le présent article s'applique à toutes les requêtes présentées en vertu de l'article 13 ou 23 qui concernent plus d'un logement locatif et qui sont fondées, en tout ou en partie :

Champ d'ap-  
plication

- a) dans le cas d'une requête présentée en vertu de l'article 13, sur une dépense en immobilisations tel qu'énoncé à l'article 15, 16 ou 17;
- b) dans le cas d'une requête présentée en vertu de l'article 23, sur un entretien ou des réparations insuffisants ou sur une interruption ou une réduction des services et installations, tel qu'énoncé à l'article 25 ou 26.

(2) Sous réserve du paragraphe 63 (1), une audience est tenue à moins que toutes les parties à la requête ne demandent qu'il soit statué sur l'instance par voie de révision administrative conformément au présent article.

Tenue d'une  
audience

(3) Le requérant qui désire qu'il soit statué sur une instance par voie de révision administrative le demande dans la requête.

Demande de  
révision admi-  
nistrative

(4) Toute autre partie à l'instance peut demander qu'il soit statué sur l'instance par voie de révision administrative en donnant un avis écrit à l'agent principal des loyers au plus tard quinze jours après la date à laquelle l'avis accusant réception de la requête est délivré.

Idem

(5) L'agent des loyers peut proroger le délai imparti pour qu'une partie demande une révision administrative à n'importe quel

Prorogation  
des délais



Application	<b>62.</b> —(1) This section applies to all applications to which section 61 does not apply.	moment avant qu'un avis d'audience ne soit délivré.	<b>62</b> (1) Le présent article s'applique à toutes les requêtes auxquelles l'article 61 ne s'applique pas.	Champ d'application
Administrative review to apply	(2) An administrative review shall be held unless a party requests a hearing as set out in this section.	(2) Une révision administrative a lieu à moins qu'une partie ne demande une audience, tel qu'énoncé au présent article.	(2) Une révision administrative a lieu à moins qu'une partie ne demande une audience, tel qu'énoncé au présent article.	Révision administrative applicable
Request for hearing	(3) An applicant who wants a hearing to be held shall request the hearing in the application.	(3) Le requérant qui désire qu'une audience soit tenue le demande dans la requête.	(3) Le requérant qui désire qu'une audience soit tenue le demande dans la requête.	Demande d'audience
Idem	(4) Any other party to a proceeding may, by written notice to the Chief Rent Officer given not later than fifteen days after the date the acknowledgment notice is issued, request that a hearing be held in respect of the application.	(4) Toute autre partie à l'instance peut, en donnant un avis écrit à l'agent principal des loyers au plus tard quinze jours après la date à laquelle l'avis accusant réception de la requête est délivré, demander qu'une audience soit tenue relativement à la requête.	(4) Toute autre partie à l'instance peut, en donnant un avis écrit à l'agent principal des loyers au plus tard quinze jours après la date à laquelle l'avis accusant réception de la requête est délivré, demander qu'une audience soit tenue relativement à la requête.	Idem
Extension	(5) A rent officer may extend the time for any party to request a hearing at any time before a notice of administrative review is issued.	(5) L'agent des loyers peut proroger le délai imparti pour qu'une partie demande une audience à n'importe quel moment avant qu'un avis de révision administrative ne soit délivré.	(5) L'agent des loyers peut proroger le délai imparti pour qu'une partie demande une audience à n'importe quel moment avant qu'un avis de révision administrative ne soit délivré.	Prorogation
Deemed waiver	(6) A party to a proceeding who does not request a hearing as provided in this section shall be deemed to have waived the right to a hearing.	(6) La partie à une instance qui ne demande pas une audience de la façon prévue au présent article est réputée avoir renoncé à son droit à une audience.	(6) La partie à une instance qui ne demande pas une audience de la façon prévue au présent article est réputée avoir renoncé à son droit à une audience.	Renonciation réputée
Administrative review directed	<b>63.</b> —(1) The Chief Rent Officer may direct that a proceeding described in subsection 61 (1) that was to be determined by a hearing be determined by administrative review if all of the parties consent in writing to the proceeding being determined by administrative review and their consents are filed with the Chief Rent Officer.	<b>63</b> (1) L'agent principal des loyers peut ordonner qu'il soit statué, par voie de révision administrative, sur une instance visée au paragraphe 61 (1) qui devait faire l'objet d'une audience, si toutes les parties y consentent par écrit et que les documents attestant leurs consentements sont déposés auprès de l'agent principal des loyers.	<b>63</b> (1) L'agent principal des loyers peut ordonner qu'il soit statué, par voie de révision administrative, sur une instance visée au paragraphe 61 (1) qui devait faire l'objet d'une audience, si toutes les parties y consentent par écrit et que les documents attestant leurs consentements sont déposés auprès de l'agent principal des loyers.	Révision administrative ordonnée
Idem	(2) The Chief Rent Officer may direct that a proceeding described in subsection 62 (1) that was to be determined by a hearing be determined by administrative review if,	(2) L'agent principal des loyers peut ordonner qu'il soit statué, par voie de révision administrative, sur une instance visée au paragraphe 62 (1) qui devait faire l'objet d'une audience, si :	(2) L'agent principal des loyers peut ordonner qu'il soit statué, par voie de révision administrative, sur une instance visée au paragraphe 62 (1) qui devait faire l'objet d'une audience, si :	Idem
	(a) a party who requested a hearing withdraws the request by written notice filed with the Chief Rent Officer before the notice of hearing is issued; and	a) d'une part, la partie qui a demandé l'audience retire sa demande au moyen d'un avis écrit déposé auprès de l'agent principal des loyers avant que l'avis d'audience ne soit délivré;	a) d'une part, la partie qui a demandé l'audience retire sa demande au moyen d'un avis écrit déposé auprès de l'agent principal des loyers avant que l'avis d'audience ne soit délivré;	
	(b) all other parties consent in writing to the proceeding being determined by administrative review and their consents are filed with the Chief Rent Officer.	b) d'autre part, toutes les autres parties consentent par écrit à ce qu'il soit statué sur l'instance par voie de révision administrative et que les documents attestant leurs consentements sont déposés auprès de l'agent principal des loyers.	b) d'autre part, toutes les autres parties consentent par écrit à ce qu'il soit statué sur l'instance par voie de révision administrative et que les documents attestant leurs consentements sont déposés auprès de l'agent principal des loyers.	
Notice	(3) If the Chief Rent Officer directs under this section that a proceeding be determined by administrative review, he or she shall give the parties the notice required by section 68 and shall set out in the notice reasonable time periods for presenting evidence, making submissions and replying.	(3) S'il ordonne en vertu du présent article qu'il soit statué sur une instance par voie de révision administrative, l'agent principal des loyers donne aux parties l'avis exigé par l'article 68 et y fixe des délais raisonnables pour présenter des éléments de preuve et des observations, et pour donner une réponse.	(3) S'il ordonne en vertu du présent article qu'il soit statué sur une instance par voie de révision administrative, l'agent principal des loyers donne aux parties l'avis exigé par l'article 68 et y fixe des délais raisonnables pour présenter des éléments de preuve et des observations, et pour donner une réponse.	Avis



Adding  
parties

**64.**—(1) If a party is added to a proceeding and section 61 would have applied to the proceeding if the added party had been a party at the time the application was made, a hearing shall be held unless all of the parties including the added party requests administrative review before the later of,

- (a) fifteen days after the party is added; and
- (b) time required under section 61.

Idem

(2) If, as a result of subsection (1), a proceeding that was to be determined by administrative review is to be determined by holding a hearing, the Chief Rent Officer shall notify the parties of that fact and shall give them the notice required by section 82.

Hearing

**65.**—(1) A hearing shall be held in respect of an application if,

- (a) section 61 applies to the application and not all of the parties have requested administrative review;
- (b) section 62 applies to the application and any party has requested a hearing in accordance with that section; or
- (c) the Chief Rent Officer believes a hearing should be held.

Idem

(2) If a hearing is held, the procedural rules set out in sections 82 to 88 shall apply.

Request for  
pre-hearing  
conference

**66.**—(1) A party to a proceeding that is to be determined by holding a hearing may request a pre-hearing conference at any time before the notice of hearing is issued.

Conference  
directed

(2) The Chief Rent Officer may direct that a pre-hearing conference be held in respect of an application if a hearing is to be held and the Chief Rent Officer believes the conference should be held.

Pre-hearing  
conference

(3) If a pre-hearing conference is held, the procedural rules set out in sections 75 to 81 shall apply.

Administra-  
tive review

**67.** If a hearing is not held, the procedural rules set out in sections 68 to 74 shall apply.

Notice of  
administra-  
tive review

**68.** If there is not to be a hearing, the Chief Rent Officer shall give the parties a written notice of administrative review advising them,

- (a) that the proceeding will be determined by administrative review;

**64** (1) Si une partie est mise en cause dans une instance et que l'article 61 se serait appliqué à celle-ci si la partie mise en cause avait été une partie au moment où la requête a été présentée, une audience est tenue à moins que toutes les parties, y compris la partie mise en cause, ne demandent une révision administrative avant l'expiration de celui des délais suivants qui expire après l'autre :

- a) quinze jours après que la partie a été mise en cause;
- b) le délai prévu à l'article 61.

Mise en cause  
de parties

(2) Si, à la suite de l'application du paragraphe (1), il doit être statué par voie d'audience sur une instance qui devait faire l'objet d'une révision administrative, l'agent principal des loyers en avise les parties et leur donne l'avis exigé par l'article 82.

Idem

**65** (1) Une audience est tenue à l'égard d'une requête si, selon le cas :

Audience

- a) l'article 61 s'applique à la requête et que toutes les parties n'ont pas demandé la révision administrative;
- b) l'article 62 s'applique à la requête et qu'une partie a demandé une audience conformément à cet article;
- c) l'agent principal des loyers croit qu'une audience devrait être tenue.

(2) Si une audience est tenue, les règles de procédure énoncées aux articles 82 à 88 s'appliquent.

Idem

**66** (1) Une partie à une instance qui doit faire l'objet d'une audience peut demander une conférence préparatoire à l'audience à n'importe quel moment avant que l'avis d'audience ne soit délivré.

Demande de  
conférence  
préparatoire à  
l'audience

(2) L'agent principal des loyers peut ordonner la tenue d'une conférence préparatoire à l'audience à l'égard d'une requête si une audience doit être tenue et que l'agent principal des loyers croit que la conférence devrait être tenue.

Tenue d'une  
conférence

(3) Si une conférence préparatoire à l'audience est tenue, les règles de procédure énoncées aux articles 75 à 81 s'appliquent.

Conférence  
préparatoire à  
l'audience

**67** Si une audience n'est pas tenue, les règles de procédure énoncées aux articles 68 à 74 s'appliquent.

Révision  
administrative

#### RÉVISION ADMINISTRATIVE

**68** S'il ne doit pas y avoir d'audience, l'agent principal des loyers donne aux parties un avis écrit de révision administrative les avisant de ce qui suit :

Avis de révi-  
sion adminis-  
trative

- a) il sera statué sur l'instance par voie de révision administrative;

	(b) of the right of any party other than the applicant to make submissions; and	b) une partie autre que le requérant a le droit de présenter des observations;	
	(c) of the applicant's right to reply.	c) le requérant a le droit de répondre.	
Submissions	<b>69.</b> —(1) Any party to a proceeding to be determined by administrative review, other than the applicant, may present evidence and make submissions.	<b>69</b> (1) Si elle n'est pas le requérant, une partie à une instance sur laquelle il sera statué par voie de révision administrative peut présenter des éléments de preuve et des observations.	Observations
Idem	(2) The evidence and submissions must be presented and made before the day which is at least twenty-five days after the date the notice of administrative review is issued.	(2) Les éléments de preuve et les observations doivent être présentés avant le jour qui tombe au moins vingt-cinq jours après la date de délivrance de l'avis de révision administrative.	Idem
Reply	(3) The applicant may reply to any submissions made any time before the day that is fifteen days after the deadline for making submissions.	(3) Le requérant peut répondre aux observations présentées à tout moment avant le jour qui tombe quinze jours après la date limite de présentation des observations.	Réponse
Determination and order	<b>70.</b> After the periods for submissions and reply have expired, a rent officer shall review the evidence and submissions and make a determination on all matters without a hearing and make an order.	<b>70</b> Après que les périodes prévues pour les observations et la réponse ont expiré, l'agent des loyers examine les éléments de preuve et les observations, rend une décision sur toutes les questions sans tenir d'audience et rend une ordonnance.	Décision et ordonnance
Material to be considered	<b>71.</b> —(1) Except as provided in subsection (2) and section 72, if a proceeding is decided by administrative review,	<b>71</b> (1) Sous réserve du paragraphe (2) et de l'article 72, s'il est statué sur une instance par voie de révision administrative :	Pièces admises
	(a) the only evidence and submissions in support of the application that the rent officer may consider is that filed with the application or given in reply; and	a) les seuls éléments de preuve et observations à l'appui de la requête dont l'agent des loyers peut tenir compte sont ceux déposés avec la requête ou donnés dans une réponse;	
	(b) the only evidence and submissions that a party other than the applicant may present or make is that presented or made under subsection 69 (1).	b) les seuls éléments de preuve et observations qu'une partie autre que le requérant peut présenter sont ceux présentés en vertu du paragraphe 69 (1).	
Further submissions	(2) A rent officer may permit a party to present further evidence or submissions or may direct a party to present further evidence or submissions that the rent officer considers necessary to make a decision.	(2) L'agent des loyers peut permettre à une partie de présenter d'autres éléments de preuve ou observations ou il peut ordonner à une partie de présenter d'autres éléments de preuve ou observations qu'il estime nécessaires pour rendre une décision.	Autres observations
Idem	(3) If any person presents further evidence or submissions, the rent officer shall give the other parties an opportunity to examine it and to explain or refute it.	(3) Si une personne présente d'autres éléments de preuve ou observations, l'agent des loyers donne aux autres parties la possibilité de les examiner et de les expliquer ou de les réfuter.	Idem
If further submissions not filed	(4) If an applicant fails to comply with a direction under subsection (2) or section 92, the rent officer may dismiss the application or refuse to consider that part of the application relating to the failure to comply with the direction.	(4) Si le requérant ne se conforme pas à une directive prévue au paragraphe (2) ou à l'article 92, l'agent des loyers peut rejeter la requête ou refuser de tenir compte de la partie de la requête sur laquelle porte le défaut de se conformer à la directive.	Si d'autres observations ne sont pas déposées
Idem	(5) If a party other than an applicant fails to comply with a direction under subsection (2) or section 92, the rent officer may refuse to take into account the party's submissions and evidence respecting the matter regarding	(5) Si une partie autre que le requérant ne se conforme pas à une directive prévue au paragraphe (2) ou à l'article 92, l'agent des loyers peut refuser de tenir compte des observations et des éléments de preuve que la partie a présentés à l'égard de la question	Idem



which there was a failure to comply with the direction.

(6) A rent officer shall make a written record of any oral evidence or submissions given in an administrative review and shall place that record in the file.

72.—(1) The rent officer may consider any relevant information obtained by him or her in addition to the evidence given by the parties, provided that he or she first informs the parties of the additional information and gives them an opportunity to explain or refute it.

(2) The rent officer may,

- (a) conduct an enquiry or inspect documents that he or she considers necessary;
- (b) question any person by telephone or otherwise; and
- (c) cause an employee of the Ministry to do anything set out in clauses (a) and (b).

(3) The person collecting evidence under subsection (2) shall make a written record of any evidence obtained and shall place that record in the file.

(4) The rent officer may view any premises that are the subject of an administrative review.

(5) A rent officer may direct an inspector to inspect premises that are the subject of an administrative review and the inspector shall make a written report of the inspection and place the report in the file.

73. The *Statutory Powers Procedure Act* does not apply to a determination without a hearing.

74. A Chief Rent Officer shall make available for public inspection any application that is determined by administrative review and the evidence, submissions and order relating to that application, in the same manner that it would be available if the application were determined with a hearing.

#### PRE-HEARING CONFERENCE

75.—(1) If there is to be a pre-hearing conference, the Chief Rent Officer shall notify the parties in writing of the date set for the conference.

(2) The conference shall be set for a day that is at least fifteen days after the date the notice of pre-hearing conference is issued.

sur laquelle porte le défaut de se conformer à la directive.

(6) L'agent des loyers rapporte par écrit tout témoignage oral donné au cours d'une révision administrative, ainsi que toutes observations qui y sont présentées verbalement, et en verse le relevé au dossier.

72 (1) L'agent des loyers peut tenir compte de tout renseignement pertinent qu'il a obtenu en plus des éléments de preuve présentés par les parties, à condition qu'il informe d'abord les parties des renseignements supplémentaires et qu'il leur donne la possibilité de les expliquer ou de les réfuter.

(2) L'agent des loyers peut :

- a) mener une enquête ou examiner des documents selon ce qu'il estime nécessaire;
- b) interroger des personnes par téléphone ou autrement;
- c) faire faire ce qui est énoncé aux alinéas a) et b) par un employé du ministère.

(3) La personne qui recueille des éléments de preuve en vertu du paragraphe (2) rapporte par écrit les éléments de preuve obtenus et en verse le relevé au dossier.

(4) L'agent des loyers peut examiner les lieux qui font l'objet d'une révision administrative.

(5) L'agent des loyers peut ordonner à un inspecteur d'effectuer une inspection des lieux qui font l'objet d'une révision administrative. Dans ce cas, l'inspecteur fait un rapport de l'inspection par écrit et le verse au dossier.

73 La *Loi sur l'exercice des compétences légales* ne s'applique pas à une décision rendue sans la tenue d'une audience.

74 L'agent principal des loyers tient à la disposition du public aux fins d'examen toute requête sur laquelle il est statué par voie de révision administrative, ainsi que les éléments de preuve, les observations et l'ordonnance qui se rapportent à cette requête, comme ils le seraient s'il était statué sur la requête à la suite d'une audience.

#### CONFÉRENCE PRÉPARATOIRE À L'AUDIENCE

75 (1) S'il doit y avoir une conférence préparatoire à l'audience, l'agent principal des loyers avise les parties, par écrit, de la date fixée pour la conférence.

(2) La conférence est prévue pour un jour qui tombe au moins quinze jours après la date de délivrance de l'avis de conférence préparatoire à l'audience.

Témoignage oral

Autres renseignements pertinents

Pouvoirs supplémentaires

Idem

Examen des lieux

Inspection des lieux

Procédure

Renseignements disponibles

Conférence préparatoire à l'audience

Date

Oral evidence

Other relevant information

Additional powers

Idem

View premises

Inspection of premises

SPPA does not apply

Information available

Pre-hearing conference

Date



Idem

(3) The rent officer conducting the pre-hearing conference may direct that any of the following matters be discussed:

1. Whether the issues to be dealt with at the hearing can be clarified.
2. Whether any person ought to be added or removed as a party to the proceeding.
3. What rental units are affected by the proceeding.
4. Any procedural matter that arises or may arise in connection with the proceeding.

Evidence to be considered

76.—(1) Except as provided in subsection (2), the only written evidence in support of the application that the rent officer may consider is the material filed with the application or given in reply.

Additional evidence

(2) Before, during or after a pre-hearing conference, a rent officer may permit a party to file additional evidence or may direct a party to file any additional evidence the rent officer considers necessary.

Idem

(3) If a party files additional evidence, the rent officer shall give the other parties an opportunity to examine it and to explain or refute it.

Idem

(4) The rent officer may reconvene the conference from time to time, if necessary.

Submissions

77. Any party to the application may make submissions at a pre-hearing conference respecting the matters in issue at the conference.

Recommendations

78.—(1) The rent officer may make whatever written recommendations he or she considers necessary or advisable arising out of the matters that are considered at the conference.

Idem

(2) Any recommendations made under subsection (1) shall be placed in the file pertaining to the proceeding.

Examination of recommendations

(3) Any party to the proceeding is entitled to examine the recommendations and may make submissions in respect of them at the hearing.

Order

79.—(1) The rent officer may make whatever preliminary order he or she considers fair in the circumstances arising out of the matters that are considered at the conference.

Exception

(2) Despite subsection (1), the rent officer shall not make an order clarifying the issues to be dealt with at the hearing.

(3) L'agent des loyers qui tient la conférence préparatoire à l'audience peut ordonner que les questions suivantes y soient discutées :

Idem

1. La question de savoir si les questions en litige à résoudre au cours de l'audience peuvent être clarifiées.
2. La question de savoir si quiconque devrait être ajouté ou retiré comme partie à l'instance.
3. Quels sont les logements locatifs visés par l'instance.
4. Les questions de procédure qui sont ou pourraient être soulevées relativement à l'instance.

76 (1) Sous réserve du paragraphe (2), les seuls éléments de preuve écrits à l'appui de la requête dont l'agent des loyers peut tenir compte sont les pièces déposées avec la requête ou données dans une réponse.

Éléments de preuve admis

(2) Avant, pendant ou après la conférence préparatoire à l'audience, l'agent des loyers peut permettre à une partie de déposer des éléments de preuve supplémentaires ou il peut ordonner à une partie de déposer les éléments de preuve supplémentaires qu'il estime nécessaires.

Éléments de preuve supplémentaires

(3) Si une partie dépose des éléments de preuve supplémentaires, l'agent des loyers donne aux autres parties la possibilité de les examiner et de les expliquer ou de les réfuter.

Idem

(4) L'agent des loyers peut convoquer de nouveau la conférence au besoin.

Idem

77 Les parties à la requête peuvent présenter, au cours de la conférence préparatoire à l'audience, des observations à l'égard des questions en litige à la conférence.

Observations

78 (1) L'agent des loyers peut faire par écrit les recommandations qu'il estime nécessaires ou opportunes par suite des questions examinées au cours de la conférence.

Recommandations

(2) Les recommandations faites en vertu du paragraphe (1) sont versées au dossier relatif à l'instance.

Idem

(3) Les parties à l'instance ont le droit d'examiner les recommandations et peuvent présenter à l'audience des observations à leur sujet.

Examen des recommandations

79 (1) L'agent des loyers peut rendre toute ordonnance préliminaire qu'il estime juste dans les circonstances qui se dégagent des questions qui sont examinées au cours de la conférence.

Ordonnance

(2) Malgré le paragraphe (1), l'agent des loyers ne peut pas rendre d'ordonnance clari-

Exception

Idem

(3) The rent officer shall give a copy of any order to the parties to the conference before the hearing and shall give written reasons for it if requested by a party.

Order binding

(4) A preliminary order under this section is binding on the rent officer who conducts the hearing.

Rent officer not to conduct hearing

**80.** The rent officer who conducts the pre-hearing conference shall not conduct the hearing or determine the proceeding by administrative review.

SPPA does not apply

**81.** The *Statutory Powers Procedure Act* does not apply to a pre-hearing conference.

## HEARING

Notice of hearing

**82.—**(1) If there is to be a hearing, the Chief Rent Officer shall notify the parties in writing of the date set for the hearing.

Date

(2) The hearing shall be set for a day that is after the later of,

(a) fifty-five days after the date the acknowledgment notice is issued; and

(b) fifteen days after the date the notice of hearing is issued.

SPPA applies

**83.** The *Statutory Powers Procedure Act* applies to all hearings conducted by rent officers under this Act.

Matters to be considered

**84.—**(1) The rent officer conducting the hearing may consider,

(a) any evidence and submissions given to him or her in respect of the application;

(b) any evidence and submissions given at the hearing; and

(c) any other matters he or she considers necessary or advisable to deal with the matter being heard.

Additional powers

(2) During a hearing, a rent officer may question any person by telephone, so long as it is done in such a way that any parties attending the hearing can hear both sides of the conversation.

Idem

(3) A rent officer may view any premises that are the subject of a hearing and may do so before, during or after the hearing but, if the rent officer does so before or after the hearing, he or she shall give the parties an opportunity to view the premises with him or her.

fiant les questions en litige à résoudre au cours de l'audience.

Idem

(3) L'agent des loyers donne une copie de l'ordonnance aux parties à la conférence avant l'audience et il en donne les motifs par écrit si une partie en fait la demande.

Ordonnance obligatoire

(4) L'ordonnance préliminaire prévue au présent article lie l'agent des loyers qui tient l'audience.

L'agent des loyers ne tient pas l'audience

**80** L'agent des loyers qui tient la conférence préparatoire à l'audience ne peut pas tenir l'audience ni statuer sur l'instance par voie de révision administrative.

Procédure

**81** La *Loi sur l'exercice des compétences légales* ne s'applique pas à une conférence préparatoire à l'audience.

## AUDIENCE

Avis d'audience

**82** (1) S'il doit y avoir une audience, l'agent principal des loyers avise les parties, par écrit, de la date fixée pour l'audience.

Date

(2) L'audience est prévue pour un jour qui tombe après celui des délais suivants qui est postérieur à l'autre :

a) cinquante-cinq jours après la date de délivrance de l'avis accusant réception de la requête;

b) quinze jours après la date de délivrance de l'avis d'audience.

Procédure

**83** La *Loi sur l'exercice des compétences légales* s'applique à toutes les audiences que tient un agent des loyers en vertu de la présente loi.

Questions admises

**84** (1) L'agent des loyers qui tient l'audience peut tenir compte de ce qui suit :

a) les éléments de preuve et les observations qu'il reçoit à l'égard de la requête;

b) les éléments de preuve et observations présentés à l'audience;

c) les autres questions qu'il estime nécessaires ou utiles pour résoudre la question faisant l'objet de l'audience.

Pouvoirs supplémentaires

(2) Au cours de l'audience, l'agent des loyers peut interroger des personnes par téléphone, pourvu que l'interrogation soit faite de manière que les parties présentes à l'audience puissent entendre les deux côtés de la conversation.

Idem

(3) L'agent des loyers peut voir les lieux qui font l'objet de l'audience avant, pendant ou après celle-ci. Toutefois, s'il le fait avant ou après l'audience, l'agent des loyers donne aux parties la possibilité de voir les lieux avec lui.



Idem	(4) A rent officer may direct an inspector to inspect premises that are the subject of a hearing.	(4) L'agent des loyers peut ordonner à un inspecteur d'inspecter les lieux qui font l'objet de l'audience.	Idem
Idem	(5) A rent officer may authorize an employee or agent of the Ministry to conduct an enquiry or inspect documents that he or she considers necessary and to question any person by telephone or otherwise.	(5) L'agent des loyers peut autoriser un employé ou un représentant du ministère à mener une enquête ou à examiner des documents, selon ce qu'il estime nécessaire, et à interroger des personnes par téléphone ou autrement.	Idem
Idem	(6) A person acting under subsection (4) or (5) shall make a written report of any inspection, enquiry or questioning done and place the report in the file.	(6) La personne qui agit en vertu du paragraphe (4) ou (5) prépare un rapport par écrit sur toute inspection, enquête ou interrogation effectuée et le verse au dossier.	Idem
Submissions	<b>85.</b> Any party to the application may make submissions to the rent officer at a hearing.	<b>85</b> Les parties à une requête peuvent présenter des observations à l'agent des loyers au cours de l'audience.	Observations
Evidence to be considered	<b>86.—</b> (1) Except as provided in subsection (2) and section 88, the only written evidence in support of the application that the rent officer may consider is the evidence filed with the application or given in reply.	<b>86</b> (1) Sous réserve du paragraphe (2) et de l'article 88, les seuls éléments de preuve écrits à l'appui de la requête dont l'agent des loyers peut tenir compte sont ceux déposés avec la requête ou donnés dans une réponse.	Éléments de preuve admis
Additional evidence	(2) Before, during or after a hearing, a rent officer may permit a party to present additional evidence or may direct a party to present any additional evidence the rent officer considers necessary to make a decision.	(2) Avant, pendant ou après l'audience, l'agent des loyers peut permettre à une partie de présenter des éléments de preuve supplémentaires ou il peut ordonner à une partie de présenter les éléments de preuve supplémentaires qu'il estime nécessaires pour rendre une décision.	Éléments de preuve supplémentaires
Idem	(3) If a party presents additional evidence, the rent officer shall give the other parties an opportunity to examine it and to explain or refute it.	(3) Si une partie présente des éléments de preuve supplémentaires, l'agent des loyers donne aux autres parties la possibilité de les examiner et de les expliquer ou de les réfuter.	Idem
Idem	(4) The rent officer shall reconvene the hearing from time to time, if necessary.	(4) L'agent des loyers convoque de nouveau l'audience au besoin.	Idem
If additional evidence not presented	(5) If an applicant fails to comply with a direction under subsection (2) or section 92, the rent officer may dismiss the application or refuse to consider that part of the application relating to the failure to comply with the direction.	(5) Si le requérant ne se conforme pas à une directive prévue au paragraphe (2) ou à l'article 92, l'agent des loyers peut rejeter la requête ou refuser de tenir compte de la partie de la requête sur laquelle porte le défaut de se conformer à la directive.	Si les éléments de preuve supplémentaires ne sont pas présentés
Idem	(6) If a party other than an applicant fails to comply with a direction under subsection (2) or section 92, the rent officer may refuse to consider the party's submissions and evidence respecting the matter regarding which there was a failure to comply with the direction.	(6) Si une partie autre que le requérant ne se conforme pas à une directive prévue au paragraphe (2) ou à l'article 92, l'agent des loyers peut refuser de tenir compte des observations et des éléments de preuve que la partie a présentés à l'égard de la question sur laquelle porte le défaut de se conformer à la directive.	Idem
Rent officer may question parties	<b>87.</b> At the hearing, the rent officer may question the parties who are in attendance and any witnesses with a view to determining the truth concerning the matters in dispute.	<b>87</b> À l'audience, l'agent des loyers peut interroger les parties présentes et les témoins afin d'établir la vérité concernant les questions en litige.	L'agent des loyers peut interroger les parties
Other relevant information	<b>88.</b> The rent officer may consider any relevant information obtained by him or her in addition to the evidence given at the hearing, provided that he or she first informs the parties of the additional information and gives them an opportunity to explain or refute it.	<b>88</b> L'agent des loyers peut tenir compte de tout renseignement pertinent qu'il a obtenu en plus des éléments de preuve présentés à l'audience, à condition qu'il informe d'abord les parties des renseignements sup-	Autres renseignements pertinents



## OTHER MATTERS

Frivolous or  
vexatious  
proceeding

**89.—(1)** A rent officer shall discontinue a proceeding if, in his or her opinion, the matter is trivial, frivolous or vexatious or has not been initiated in good faith.

Fraud

**(2)** A rent officer may require an inspector to investigate the conduct of a proceeding if he or she has reason to believe that a party may have filed documents that the party knew or ought to have known contained false or misleading information.

Idem

**(3)** A rent officer may discontinue a proceeding if he or she finds that the applicant filed documents that the applicant knew or ought to have known contained false or misleading information.

Idem

**(4)** A rent officer shall not consider a document filed by a party other than the applicant if he or she finds that the party knew or ought to have known the document contained false or misleading information.

Applications  
joined

**90.—(1)** The Chief Rent Officer or a rent officer may direct that two or more applications be joined or heard together if he or she believes it would be fair to determine the issues raised by them together.

Issues  
severed

**(2)** If the Chief Rent Officer or a rent officer believes that it would be fair to deal with some of the issues raised by an application separately from others, he or she may so direct and may make separate orders, if necessary

Real  
substance

**91.** In making findings on an application, a rent officer shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so,

(a) may disregard the outward form of a transaction or the separate corporate existence of participants; and

(b) may have regard to the pattern of activities relating to the residential complex or the rental unit.

File informa-  
tion

**92.** A rent officer may direct a landlord to file information under section 104, 107 or 108.

## ORDER

Order

**93.—(1)** Upon making findings on an application, the rent officer shall make an order.

plémentaires et qu'il leur donne la possibilité de les expliquer ou de les réfuter.

## AUTRES QUESTIONS

**89** (1) L'agent des loyers met fin à une instance qui, à son avis, est futile, frivole ou vexatoire, ou n'a pas été introduite de bonne foi.

Instances fri-  
voles ou  
vexatoires

**(2)** L'agent des loyers peut exiger qu'un inspecteur mène une enquête sur le déroulement d'une instance s'il a des motifs de croire qu'une partie peut avoir déposé des documents au sujet desquels elle savait ou aurait dû savoir qu'ils contenaient des renseignements faux ou trompeurs.

Fraude

**(3)** L'agent des loyers peut mettre fin à une instance s'il conclut que le requérant a déposé des documents au sujet desquels il savait ou aurait dû savoir qu'ils contenaient des renseignements faux ou trompeurs.

Idem

**(4)** L'agent des loyers ne peut pas tenir compte d'un document qu'une partie autre que le requérant a déposé s'il conclut que la partie savait ou aurait dû savoir que le document contenait des renseignements faux ou trompeurs.

Idem

**90** (1) L'agent principal des loyers ou un agent des loyers peut ordonner que deux requêtes ou plus soient jointes ou entendues ensemble s'il croit qu'il serait juste de résoudre ensemble les questions en litige qui y sont soulevées.

Jointion des  
requêtes

**(2)** Si l'agent principal des loyers ou un agent des loyers croit qu'il serait juste de résoudre séparément certaines des questions en litige qui sont soulevées dans une requête, il peut donner une directive à cet effet et rendre des ordonnances distinctes au besoin.

Séparation  
des questions  
en litige

**91** Lorsqu'il émet des conclusions au sujet d'une requête, l'agent des loyers établit le fond véritable de toutes les opérations et activités relatives à l'ensemble d'habitation ou au logement locatif, et la bonne foi des participants. Ce faisant, il peut :

Fond vérita-  
ble

a) ne pas tenir compte de la forme extérieure d'une opération ou de la personnalité morale distincte des participants;

b) tenir compte du genre d'activités relatives à l'ensemble d'habitation ou au logement locatif.

**92** L'agent des loyers peut ordonner au locateur de déclarer des renseignements aux termes de l'article 104, 107 ou 108.

Déclaration  
de renseigne-  
ments

## ORDONNANCE

**93** (1) Dès qu'il a émis des conclusions au sujet d'une requête, l'agent des loyers rend une ordonnance.

Ordonnance

Conditions	(2) The rent officer may include in an order whatever conditions he or she considers fair in the circumstances.	(2) L'agent des loyers peut assortir l'ordonnance des conditions qu'il estime justes dans les circonstances.	Conditions
Copy to parties	(3) The rent officer shall forthwith give a copy of an order to the parties and their agents and shall give written reasons.	(3) L'agent des loyers donne sans délai une copie de l'ordonnance aux parties et à leurs représentants et en donne aussi les motifs par écrit.	Copies aux parties
Order final	(4) An order made by a rent officer is final, binding and not subject to review except under section 95 or 96 and shall take effect and is enforceable according to its terms from the date it is made.	(4) L'ordonnance rendue par l'agent des loyers est définitive et n'est pas susceptible de révision, sauf en vertu de l'article 95 ou 96. Elle entre en vigueur et devient exécutoire selon ses conditions à la date à laquelle elle est rendue.	Ordonnance définitive
Clerical errors	<b>94.</b> If an order contains a clerical error or omission, the rent officer may amend it at any time before the hearing of an appeal of it has been commenced.	<b>94</b> Si une ordonnance contient une erreur d'écriture ou une omission, l'agent des loyers peut la modifier à tout moment avant le début de l'audition d'un appel de l'ordonnance.	Erreurs d'écriture
Power to reconsider	<b>95.—</b> (1) If, within one year of the date of an order, the Chief Rent Officer designated by the Director believes that a serious error has been made in it, the Chief Rent Officer or his or her delegate shall reconsider the matter and may affirm, rescind, amend or replace the order.	<b>95</b> (1) Si, dans une période d'un an à compter de la date de l'ordonnance, l'agent principal des loyers désigné par le directeur croit qu'une grave erreur a été commise dans celle-ci, l'agent principal des loyers ou son délégué examine de nouveau la question et peut confirmer, annuler, modifier ou remplacer l'ordonnance.	Pouvoir d'examiner de nouveau la question
Idem	(2) If a party to an application is found guilty of the offence of furnishing false or misleading information under this Act or is found guilty of fraud, perjury, forgery, uttering a forged document or false pretences under the <i>Criminal Code</i> (Canada) respecting the application after an order has been made on the application, the Chief Rent Officer designated by the Director, or his or her delegate, shall reconsider the matter and may affirm, amend, rescind or replace the order and subsequent orders or notices of carry forward affected by it.	(2) Si une partie à la requête est déclarée coupable d'avoir fourni des renseignements aux termes de la présente loi qui sont faux ou trompeurs ou est déclarée coupable, aux termes du <i>Code criminel</i> (Canada), de fraude, de parjure ou d'escroquerie, ou d'avoir commis un faux ou employé un document contrefait à l'égard de la requête après qu'une ordonnance a été rendue par suite de celle-ci, l'agent principal des loyers désigné par le directeur, ou son délégué, examine de nouveau la question et peut confirmer, annuler, modifier ou remplacer l'ordonnance ainsi que les ordonnances ou avis de report subséquents touchés par celle-ci.	Idem

## APPEAL

## APPEL

Appeal to Divisional Court	<b>96.—</b> (1) Any person affected by an order of a rent officer or the Director may appeal the order to the Divisional Court but only on a question of law.	<b>96</b> (1) Toute personne visée par une ordonnance d'un agent des loyers ou un ordre du directeur peut interjeter appel de l'ordonnance ou de l'ordre auprès de la Cour divisionnaire, mais elle ne peut le faire que sur une question de droit.	Appel auprès de la Cour divisionnaire
Director may be heard	(2) The Director is entitled to be heard by counsel or otherwise upon the argument on any issue in an appeal.	(2) Le directeur a le droit d'être entendu par l'entremise d'un avocat ou autrement au cours du débat portant sur une question en litige dans un appel.	Le directeur peut être entendu
Power of Divisional Court on appeal	(3) If an appeal is brought under this section, the Divisional Court shall hear and determine the appeal and may,  (a) affirm, rescind, amend or replace the decision or order; or	(3) Si un appel est interjeté en vertu du présent article, la Cour divisionnaire entend et juge l'appel, et peut, selon le cas :  a) confirmer, annuler, modifier ou remplacer la décision, l'ordre ou l'ordonnance;	Pouvoirs de la Cour divisionnaire en appel



(b) remit the matter to a rent officer or the Director, as the case may be, with the opinion of the Divisional Court.

b) renvoyer l'affaire devant un agent des loyers ou au directeur, selon le cas, avec l'opinion de la Cour divisionnaire.

Idem

(4) The Divisional Court may also make any other order in relation to the matter that it considers proper and may make any order with respect to costs that it considers proper.

(4) La Cour divisionnaire peut également rendre toute autre ordonnance qu'elle estime opportune relativement à l'affaire et peut rendre toute ordonnance à l'égard des dépens qu'elle estime opportune.

Idem

Orders not stayed pending appeal

97. An appeal from an order of a rent officer or the Director does not stay the order pending the hearing of the appeal.

97 L'appel d'une ordonnance d'un agent des loyers ou d'un ordre du directeur ne sursoit pas à l'ordonnance en attendant l'audition de l'appel.

Ordonnances non suspendues

#### MISCELLANEOUS

Substantial compliance

98. Substantial compliance with this Act respecting the contents of forms, notices or documents is sufficient unless a rent officer or other employee of the Ministry with whom it is filed is of the opinion that it would result in unfairness to any person.

98 Le fait de se conformer dans l'ensemble à la présente loi à l'égard du contenu des formules, des avis ou des documents est suffisant, à moins que l'agent des loyers ou un autre employé du ministère auprès duquel ceux-ci sont déposés ne soit d'avis qu'il en résulterait une injustice pour quiconque.

Fait de se conformer dans l'ensemble

Contingency fee limited

99.—(1) No agent who represents a landlord or a tenant in a proceeding under this Act or who assists a landlord or tenant in a matter arising under this Act shall charge or take a fee based on a proportion of any amount which has been or may be recovered, gained or saved, in whole or in part, through the efforts of the agent, where the proportion exceeds the prescribed amount.

99 (1) Nul représentant qui agit au nom d'un locateur ou d'un locataire, dans une instance introduite en vertu de la présente loi, ou qui aide un locateur ou un locataire dans une affaire qui naît de par la présente loi, ne doit demander ni prendre des honoraires fondés sur une proportion du montant qui a été ou peut être, en tout ou en partie, recouvré, obtenu ou épargné grâce aux efforts du représentant, si la proportion dépasse le montant prescrit.

Honoraires conditionnels limités

Contingency agreement void

(2) Any agreement which provides for a fee prohibited in subsection (1) is void.

(2) Est nulle toute entente qui prévoit des honoraires interdits au paragraphe (1).

Entente nulle

Enforcement of order for the payment of money

100.—(1) 99 A certified copy of an order of a rent officer for the payment of a sum of money may be filed with the Ontario Court (General Division) or the Small Claims Court and, on being filed, the order has the same force and effect and all proceedings may be taken on it as if it were a judgment of that Court.

100 (1) 99 Une copie certifiée conforme d'une ordonnance rendue par un agent des loyers en vue du paiement d'une somme d'argent peut être déposée auprès de la Cour de l'Ontario (Division générale) ou de la Cour des petites créances. Dès que le dépôt a été effectué, l'ordonnance a la même valeur et le même effet que s'il s'agissait d'un jugement de cette cour et toutes les instances peuvent être introduites à son égard qui peuvent l'être à la suite d'un tel jugement.

Exécution de l'ordonnance de paiement

Rescission of order

(2) An order rescinding an order filed under subsection (1) may be filed under that subsection and, upon filing, the order previously made ceases to have effect for the purposes of subsection (1).

(2) Une ordonnance annulant l'ordonnance déposée en vertu du paragraphe (1) peut être déposée en vertu de ce paragraphe et, dès que celle-ci est déposée, l'ordonnance rendue antérieurement n'a plus aucun effet pour l'application du paragraphe (1).

Annulation de l'ordonnance

Variation of order

(3) An order varying an order filed under subsection (1) may be filed under that subsection and, upon filing, the order previously made as so varied may be enforced in a like manner as an order filed under subsection (1).

(3) Une ordonnance modifiant l'ordonnance déposée en vertu du paragraphe (1) peut être déposée en vertu de ce paragraphe et, dès que celle-ci est déposée, l'ordonnance antérieure ainsi modifiée peut être exécutée de la même manière qu'une ordonnance déposée en vertu du paragraphe (1).

Modification de l'ordonnance



### PART III RENT REGISTRY

Rent registry **101.** The Registrar shall establish and maintain a rent registry for all residential complexes that contain rental units to which this Act applies.

Transfer of registered information **102.** Upon the coming into force of this section, the Registrar shall receive from the Minister and record in the rent registry all information that was recorded in the rent registry under the *Residential Rent Regulation Act* before the day this section is proclaimed in force.

#### STATEMENTS TO BE FILED

Statement for new complex **103.—(1)** 102 Every landlord of a new residential complex to which subsection 3 (7) (time limited exemption) applies shall file with the Registrar a statement in the prescribed form.

When statement due (2) The landlord shall file the statement within six months after the day the first rental unit in the residential complex is first rented.

Contents of statement (3) The statement shall set out the following information:

1. The name and address of the landlord.
2. If the landlord is not ordinarily resident in Ontario, the name and address of the landlord's representative or agent in Ontario.
3. The municipal address of every building that forms part of the residential complex.
4. The number of bedrooms and the suite number or other means of identification for each rental unit to which sections 6, 7, 8, 107, 108, 109 and this section apply.
5. The day the first rental unit in the residential complex is first rented.

6. Any other prescribed information.

Certificate (4) Subsections 105 (2) to (4) apply with necessary modifications to the filing of a statement under this section.

Statement of rent information **104.—(1)** Every landlord of a residential complex containing more than three residential units shall file with the Registrar a statement of rent information in the prescribed form.

When statement due (2) The landlord shall file the statement for all rental units in the residential complex

### PARTIE III REGISTRE DES LOYERS

**101** Le registrateur crée et tient un registre des loyers pour tous les ensembles d'habitation qui contiennent des logements locatifs auxquels s'applique la présente loi.

**102** Dès l'entrée en vigueur du présent article, le registrateur reçoit du ministre et inscrit dans le registre des loyers tous les renseignements qui étaient inscrits dans le registre des loyers aux termes de la *Loi sur la réglementation des loyers d'habitation* avant le jour où le présent article est proclamé en vigueur.

#### DÉCLARATIONS À DÉPOSER

**103 (1)** 102 Le locateur d'un nouvel ensemble d'habitation auquel s'applique le paragraphe 3 (7) (exemption limitée dans le temps) dépose auprès du registrateur une déclaration rédigée selon la formule prescrite.

(2) Le locateur dépose la déclaration dans les six mois qui suivent le jour où le premier logement locatif de l'ensemble d'habitation est loué pour la première fois.

(3) La déclaration contient les renseignements suivants :

1. Le nom et l'adresse du locateur.
2. Si le locateur ne réside pas ordinairement en Ontario, le nom et l'adresse de son mandataire ou de son représentant en Ontario.
3. L'adresse dans la municipalité de chacun des immeubles qui font partie de l'ensemble d'habitation.
4. Le nombre de chambres à coucher et le numéro d'appartement ou un autre moyen d'identification de chaque logement locatif auquel s'appliquent les articles 6, 7, 8, 107, 108 et 109 et le présent article.
5. Le jour où le premier logement locatif de l'ensemble d'habitation est loué pour la première fois.

6. Les autres renseignements prescrits.

(4) Les paragraphes 105 (2) à (4) s'appliquent, avec les adaptations nécessaires, au dépôt d'une déclaration prévue au présent article.

**104 (1)** Les locateurs d'un ensemble d'habitation comprenant plus de trois unités de logement déposent auprès du registrateur une déclaration de renseignements sur les loyers rédigée selon la formule prescrite.

(2) Le locateur dépose la déclaration pour tous les logements locatifs de l'ensemble d'habitation qui étaient loués à la date de

Registre des loyers

Transfert des renseignements inscrits

Déclaration pour un nouvel ensemble

Délai de dépôt de la déclaration

Contenu la déclaration

Attestation

Déclaration de renseignements sur les loyers

Délai de dépôt de la déclaration

that were rented on or before the date of filing and the date of filing shall be,

- (a) in the case of a new residential complex all of whose rental units are subject to subsection 3 (7) on the prescribed date, the date on which this Act first applies to a rental unit in the residential complex; and

- (b) in all other cases, the prescribed date.

(3) The Registrar may by notice require a landlord of a residential complex containing one, two or three residential units to file with the Registrar a statement of rent information in the prescribed form on or before the date set out in the notice if,

- (a) a tenant of a rental unit in the residential complex requests the Registrar to do so; or
- (b) in the circumstances, it would be reasonable to do so.

(4) A landlord who is required to file a statement of rent information shall file additional statements for all rental units to which this Act subsequently applies or which subsequently become rented within six months of the day of the first filing and thereafter every six months until a statement has been filed for all rental units in the residential complex.

(5) The landlord may file the statement before the date required under this section.

(6) A landlord of a residential complex may file a statement of rent information even if it is not required under this section.

(7) On or before the prescribed date, the Registrar may by notice require a landlord of a residential complex containing four, five or six residential units to file with the Registrar a statement of rent information in the prescribed form on or before the date set out in the notice if,

- (a) a tenant of a rental unit in the residential complex requests the Registrar to do so; or
- (b) in the circumstances, it would be reasonable to do so.

**105.**—(1) The statement of rent information shall set out the following information:

1. The name and address of the landlord.

dépôt ou avant cette date. La date de dépôt est :

- a) dans le cas d'un nouvel ensemble d'habitation dont tous les logements locatifs sont assujettis au paragraphe 3 (7) à la date prescrite, la date à laquelle la présente loi s'applique pour la première fois à un logement locatif de l'ensemble d'habitation;

- b) dans tous les autres cas, la date prescrite.

(3) Le registrateur peut exiger au moyen d'un avis que le locateur d'un ensemble d'habitation comprenant une, deux ou trois unités de logement dépose auprès du registrateur, à la date énoncée dans l'avis ou avant cette date, une déclaration de renseignements sur les loyers rédigée selon la formule prescrite si, selon le cas :

- a) le locataire d'un logement locatif de l'ensemble d'habitation demande au registrateur de le faire;
- b) dans les circonstances, il était raisonnable de le faire.

(4) Le locateur qui est tenu de déposer une déclaration de renseignements sur les loyers dépose des déclarations supplémentaires pour tous les logements locatifs qui, par la suite, sont assujettis à la présente loi ou sont loués dans les six mois qui suivent le jour du premier dépôt et, par la suite, tous les six mois jusqu'à ce qu'une déclaration ait été déposée pour tous les logements locatifs de l'ensemble d'habitation.

(5) Le locateur peut déposer la déclaration avant la date prévue au présent article.

(6) Le locateur d'un ensemble d'habitation peut déposer une déclaration de renseignements sur les loyers même s'il n'y est pas tenu aux termes du présent article.

(7) À la date prescrite ou avant cette date, le registrateur peut exiger au moyen d'un avis que le locateur d'un ensemble d'habitation comprenant quatre, cinq ou six unités de logement dépose auprès du registrateur, à la date énoncée dans l'avis ou avant cette date, une déclaration de renseignements sur les loyers rédigée selon la formule prescrite si, selon le cas :

- a) le locataire d'un logement locatif de l'ensemble d'habitation demande au registrateur de le faire;
- b) dans les circonstances, il était raisonnable de le faire.

**105** (1) La déclaration de renseignements sur les loyers contient les renseignements suivants :

1. Le nom et l'adresse du locateur.

Idem

Idem

Idem

Landlord  
may file

Transitional

Contents of  
statement

Idem

Idem

Idem

Le locateur  
peut déposer  
une déclara-  
tionDisposition  
transitoireContenu de  
la déclaration



2. If the landlord is not ordinarily resident in Ontario, the name and address of the landlord's representative or agent in Ontario.
3. The municipal address of every building that forms part of the residential complex.
4. The number of bedrooms and the suite number or other means of identification for each rental unit to which this Act applies.
5. The initial rent date for each rental unit to which this Act applies and the rent that was charged on that date.
6. The date that the rent that was charged on the initial rent date was first charged.
7. The number of bedrooms and the suite number or other means of identification for each residential unit to which this Act does not apply, together with the reasons why it does not apply.

8. The other prescribed information.

Certificate

(2) The statement of rent information shall contain a certificate signed by the landlord stating that the information contained in the statement, including any attachments to it, is true, correct and complete to the best of the landlord's knowledge and belief.

Idem

(3) If the landlord is a corporation, the certificate shall be signed by the president, secretary or other authorized senior officer of it.

Idem

(4) A landlord may give an agent written authorization to sign the certificate and, if the landlord does so, the Registrar may require a copy of the authorization to be filed.

Discretion

(5) If a landlord is not able to provide the Registrar with the rent charged on the initial rent date for a rental unit because the initial rent date is not known or because the amount charged on that date is not known, the Registrar may permit the landlord,

- (a) to claim, as the initial rent date, the earliest date since the 1st day of July, 1985 that the rent charged is known; and
- (b) to claim as the rent charged as of the initial rent date, the amount charged as of the date under clause (a).

2. Si le locateur ne réside pas ordinairement en Ontario, le nom et l'adresse de son mandataire ou de son représentant en Ontario.
3. L'adresse dans la municipalité de chacun des immeubles qui font partie de l'ensemble d'habitation.
4. Le nombre de chambres à coucher et le numéro d'appartement ou un autre moyen d'identification de chaque logement locatif auquel s'applique la présente loi.
5. La date du loyer initial de chaque logement locatif auquel s'applique la présente loi et le loyer qui était demandé à cette date.
6. La date à laquelle le loyer qui était demandé à la date du loyer initial a été demandé pour la première fois.
7. Le nombre de chambres à coucher et le numéro d'appartement ou un autre moyen d'identification de chaque unité de logement à laquelle la présente loi ne s'applique pas, ainsi que les raisons pour lesquelles elle ne s'applique pas.

8. Les autres renseignements prescrits.

(2) La déclaration de renseignements sur les loyers contient une attestation signée par le locateur selon laquelle les renseignements contenus dans la déclaration, y compris ses annexes, sont exacts et complets au mieux de sa connaissance et de ce qu'il tient pour véridique.

Attestation

(3) Si le locateur est une personne morale, l'attestation est signée par le président, le secrétaire ou un autre cadre dirigeant autorisé de la personne morale.

Idem

(4) Le locateur peut donner à un représentant une autorisation écrite pour signer l'attestation. Le cas échéant, le registrateur peut exiger qu'une copie de l'autorisation soit déposée.

Idem

(5) Si le locateur n'est pas en mesure de déclarer au registrateur le loyer demandé à la date du loyer initial pour un logement locatif parce que cette date n'est pas connue ou parce que le montant demandé à cette date n'est pas connu, le registrateur peut permettre au locateur :

Appréciation  
discrétion-  
naire

- a) d'une part, de déclarer comme date du loyer initial la première date, depuis le 1<sup>er</sup> juillet 1985, à laquelle le loyer demandé est connu;
- b) d'autre part, de déclarer comme loyer demandé à la date du loyer initial le montant demandé à la date visée à l'alinéa a).



Deemed to

**106.** Despite sections 104 and 105, if the information required to be filed under those sections respecting a residential complex was filed under Part V of the *Residential Rent Regulation Act* before this section comes into force, the landlord of that residential complex shall be deemed to have filed that information under those sections.

**106** Malgré les articles 104 et 105, si les renseignements qui doivent être déclarés aux termes de ces articles à l'égard d'un ensemble d'habitation ont été déclarés aux termes de la partie V de la *Loi sur la réglementation des loyers d'habitation* avant que le présent article n'entre en vigueur, le locateur de cet ensemble d'habitation est réputé avoir déclaré ces renseignements aux termes de ces articles.

Dépôt réputé

Change of information

**107.**—(1) Every landlord of a residential complex shall file with the Registrar a statement of change of information in the prescribed form setting out any changes in the information filed with the Registrar if those changes are necessary to maintain the accuracy and currency of the rent registry.

**107** (1) Les locateurs d'un ensemble d'habitation déposent auprès du registrateur une déclaration modifiant les renseignements sur les loyers, rédigée selon la formule prescrite, qui contient les modifications à apporter aux renseignements déclarés au registrateur si ces modifications sont nécessaires pour que le registre des loyers reste exact et à jour.

Modification des renseignements

When due

(2) A statement of change of information shall be filed within thirty days after the change occurred.

(2) La déclaration modifiant les renseignements sur les loyers est déposée dans les trente jours après que le changement s'est produit.

Délai

Certificate

(3) Subsections 105 (2) to (4) apply with necessary modifications to the filing of a statement of change of information.

(3) Les paragraphes 105 (2) à (4) s'appliquent, avec les adaptations nécessaires, au dépôt d'une déclaration modifiant les renseignements sur les loyers.

Attestation

to information

**108.**—(1) If the Registrar is satisfied that information about a residential complex that a landlord has filed with the Registrar is incorrect or incomplete, the Registrar may by notice require the landlord to file a new or amended statement.

**108** (1) Si le registrateur est convaincu que des renseignements que le locateur a déclarés au registrateur sur un ensemble d'habitation sont inexacts ou incomplets, le registrateur peut exiger, au moyen d'un avis, que le locateur dépose une nouvelle déclaration ou une déclaration modifiée.

Avis pour que soit déposée une nouvelle déclaration

Idem

(2) The notice shall,

(2) L'avis :

Idem

(a) inform the landlord that the landlord must file a corrected or completed statement before the day set out in the notice;

a) informe le locateur qu'il doit déposer une déclaration corrigée ou complétée avant le jour énoncé dans l'avis;

(b) identify those items in the landlord's statement that the Registrar believes to be incorrect or incomplete; and

b) précise les renseignements dans la déclaration du locateur que le registrateur estime inexacts ou incomplets;

(c) inform the landlord of the landlord's right to apply under section 33 for an order verifying that the information is correct and complete.

c) informe le locateur qu'il a le droit de présenter une requête en vertu de l'article 33 en vue d'obtenir une ordonnance attestant que les renseignements sont exacts et complets.

Acceptance refused

(3) If the landlord does not comply with a notice under this section, the Registrar may refuse to accept the statement to which the notice relates for filing.

(3) Si le locateur ne se conforme pas à l'avis prévu au présent article, le registrateur peut refuser la déclaration à laquelle se rapporte l'avis aux fins de dépôt.

Déclaration refusée

Certificate

(4) Subsections 105 (2) to (4) apply with necessary modifications to the filing of a new or amended statement.

(4) Les paragraphes 105 (2) à (4) s'appliquent, avec les adaptations nécessaires, au dépôt d'une nouvelle déclaration ou d'une déclaration modifiée.

Attestation

New landlord

**109.** If, when a person becomes the new landlord of a residential complex, the time for filing a statement under section 103, 104, 107 or 108 has expired, the new landlord

**109** Si, lorsqu'une personne devient le nouveau locateur d'un ensemble d'habitation, le délai de dépôt d'une déclaration prévue à l'article 103, 104, 107 ou 108 a expiré, le

Nouveau locateur

shall file the statement within thirty days of becoming landlord.

nouveau locateur dépose la déclaration dans les trente jours qui suivent le jour où il devient le locateur.

#### CALCULATION OF MAXIMUM RENT

#### CALCUL DU LOYER MAXIMAL

Maximum  
rent

**110.**—(1) After accepting a statement of rent information and within the prescribed time, the Registrar shall,

**110** (1) Après avoir accepté une déclaration de renseignements sur les loyers mais dans le délai prescrit, le registrateur :

Loyer maxi-  
mal

(a) calculate for each rental unit to which this Act applies and for which information was filed, the maximum rent as of the initial rent date and the date on which that maximum rent took effect or takes effect; and

a) d'une part, calcule, pour chacun des logements locatifs auxquels s'applique la présente loi et pour lesquels des renseignements ont été déclarés, le loyer maximal à la date du loyer initial et la date à laquelle ce loyer maximal a pris ou prend effet;

(b) calculate for each such rental unit the maximum rent on the date of the calculation and the date on which that maximum rent took effect.

b) d'autre part, calcule pour chacun de ces logements locatifs le loyer maximal à la date du calcul et la date à laquelle ce loyer maximal a pris effet.

Idem

(2) The Registrar shall make the calculations under subsection (1) for a rental unit in accordance with the prescribed rules after reviewing the information filed or recorded under this Part, any orders or notices of carry forward made under this Act, any decreases in maximum rent made under section 113 or 115, any orders made under *The Residential Premises Rent Review Act, 1975 (2nd Session)* or the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, and any orders or notices under the *Residential Rent Regulation Act* that affect that rental unit.

(2) Le registrateur effectue les calculs prévus au paragraphe (1) pour un logement locatif conformément aux règles prescrites après avoir examiné les renseignements déclarés ou inscrits aux termes de la présente partie, les ordres ou les avis de report donnés et les ordonnances rendues en vertu de la présente loi, les réductions de loyer maximal effectuées en vertu de l'article 113 ou 115, les ordonnances rendues en vertu de la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)* ou de la loi intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, et les arrêtés pris, les ordonnances rendues et les ordres et les avis donnés en vertu de la *Loi sur la réglementation des loyers d'habitation*, qui touchent ce logement locatif.

Idem

Separate  
charges

(3) Subsections 45 (1) and (2) apply with necessary modifications to the Registrar's calculation of separate charges under this section.

(3) Les paragraphes 45 (1) et (2) s'appliquent, avec les adaptations nécessaires, au calcul par le registrateur des charges distinctes aux termes du présent article.

Charges dis-  
tinctes

Notice to  
landlord

**111.**—(1) After making the calculations under section 110 and within the prescribed time, the Registrar shall give to the landlord who has filed a statement a notice of rent information setting out,

**111** (1) Après avoir effectué les calculs prévus à l'article 110 mais dans le délai prescrit, le registrateur donne au locateur qui a déposé une déclaration un avis de renseignements sur les loyers, énonçant ce qui suit :

Avis au loca-  
teur

(a) the information filed and accepted for all rental units for which the statement was filed;

a) les renseignements déclarés et acceptés pour tous les logements locatifs au sujet desquels la déclaration a été déposée;

(b) the calculations made under section 110 for all rental units for which the statement was filed;

b) les calculs effectués en vertu de l'article 110 pour tous les logements locatifs au sujet desquels la déclaration a été déposée;

(c) the landlord's right under section 33 to apply to change or add to any of that information; and

c) le droit du locateur de présenter une requête en vertu de l'article 33 pour faire apporter des modifications ou des ajouts à ces renseignements;



(d) the effect of the notice, as set out in subsection (4).

(2) Within the prescribed time, the Registrar shall give to the tenant of every rental unit for which the statement was filed a notice of rent information setting out,

- (a) the information filed and accepted for the tenant's rental unit;
- (b) the calculations made under section 110 for the tenant's rental unit;
- (c) the tenant's right under section 33 to apply to change or add to any of that information; and
- (d) the effect of the notice, as set out in subsection (4).

(3) The Registrar is not required to give a landlord or tenant a notice of rent information under subsection (1) or (2) in the prescribed circumstances, despite those subsections.

(4) If, within six months of the date the Registrar issues a notice of rent information in respect of a rental unit, no application is made to correct or add to the information in it or in which the maximum rent for that rental unit will be determined, the calculations made under section 110 shall be deemed to have the same effect as an order.

(5) The Registrar may issue an amended notice of rent information within eighteen months after the issue of the original notice if no application has been made to correct or add to the information in it and the Registrar is satisfied that he or she made an error in the original notice.

(6) Subsection (4) does not apply to a notice if the Registrar issues a notice amending it before the deeming in subsection (4) has occurred.

(7) If the Registrar issues an amended notice after the deeming in subsection (4) has occurred, the calculations in the original notice shall no longer be deemed to have the same effect as an order.

(8) Subsections (1) to (4) apply with necessary modifications to an amended notice.

(9) If a notice was given under section 59 of the *Residential Rent Regulation Act*

d) l'effet de l'avis, tel qu'il est énoncé au paragraphe (4).

(2) Dans le délai prescrit, le registrateur donne au locataire de chaque logement locatif au sujet duquel la déclaration a été déposée, un avis de renseignements sur les loyers, énonçant ce qui suit :

- a) les renseignements déclarés et acceptés pour le logement locatif du locataire;
- b) les calculs effectués en vertu de l'article 110 pour le logement locatif du locataire;
- c) le droit du locataire de présenter une requête en vertu de l'article 33 pour faire apporter des modifications ou des ajouts à ces renseignements;
- d) l'effet de l'avis, tel qu'il est énoncé au paragraphe (4).

(3) Malgré les paragraphes (1) et (2), le registrateur n'est pas tenu de donner au locateur ou au locataire un avis de renseignements sur les loyers aux termes de l'un ou l'autre de ces paragraphes dans les circonstances prescrites.

(4) Si, dans les six mois qui suivent la date à laquelle le registrateur délivre un avis de renseignements sur les loyers à l'égard d'un logement locatif, aucune requête n'est présentée pour faire apporter des modifications ou des ajouts aux renseignements que contient l'avis ou dans lequel le loyer maximal de ce logement locatif est déterminé, les calculs effectués aux termes de l'article 110 sont réputés avoir le même effet qu'une ordonnance.

(5) Le registrateur peut délivrer un avis modifié de renseignements sur les loyers dans les dix-huit mois qui suivent la délivrance de l'avis initial si aucune requête n'a été présentée pour faire apporter des modifications ou des ajouts aux renseignements que contient l'avis et que le registrateur est convaincu qu'il a fait une erreur dans l'avis initial.

(6) Le paragraphe (4) ne s'applique pas à un avis si le registrateur délivre un avis le modifiant avant que les calculs effectués soient réputés, aux termes du paragraphe (4), avoir le même effet qu'une ordonnance.

(7) Si le registrateur délivre un avis modifié après que les calculs effectués sont réputés, aux termes du paragraphe (4), avoir le même effet qu'une ordonnance, ces calculs ne sont plus réputés avoir le même effet qu'une ordonnance.

(8) Les paragraphes (1) à (4) s'appliquent, avec les adaptations nécessaires, à un avis modifié.

(9) Si un avis a été donné aux termes de l'article 59 de la *Loi sur la réglementation des*

Avis au locataire

Exception

Calculs réputés exacts

Avis modifié

Idem

Idem

Idem

Disposition transitoire

Notice to tenant

Exception

Calculations deemed correct

Amended notice

Idem

Idem

Idem

Transitional



respecting a rental unit in a residential complex before the day this subsection is proclaimed in force, no application or Minister's motion was made under section 60 of that Act before that day and the deeming set out in subsection 60 (3) of that Act has not occurred before that day,

- (a) no notice shall be given under this section;
- (b) the landlord or a tenant may apply under section 33 of this Act to correct or add to any of the information set out in the notice if they do so within the time required for making an application under section 58 of the *Residential Rent Regulation Act*; and
- (c) the rent recorded in the rent registry for that rental unit shall be deemed to be the maximum rent as of the actual rent date under the *Residential Rent Regulation Act* if no application that would result in a determination of maximum rent is made under this Act within the time set out in the notice given under section 59 of the *Residential Rent Regulation Act*.

#### INFORMATION RECORDED IN REGISTRY

Information  
recorded

**112.—**(1) The Registrar shall record in the rent registry,

- (a) the information filed and accepted under this Part;
- (b) the calculations made under section 110;
- (c) an order made under Part I;
- (d) the most recent order made under *The Residential Premises Rent Review Act, 1975 (2nd Session)* or the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, or any order made under the *Residential Rent Regulation Act*;
- (e) a guideline increase permitted to be taken under Part I;
- (f) a statutory increase that was permitted under *The Residential Premises Rent Review Act, 1975 (2nd Session)*, Part XI of the *Residential Tenancies Act*,

*loyers d'habitation* à l'égard d'un logement locatif de l'ensemble d'habitation avant le jour où le présent paragraphe est proclamé en vigueur, qu'il n'y a eu aucune initiative de prise par le ministre ni aucune demande de présentée en vertu de l'article 60 de cette loi avant ce jour et que le loyer réel inscrit dans le registre des loyers pour ce logement locatif n'est pas réputé le loyer maximal légal aux termes du paragraphe 60 (3) de cette loi avant ce jour :

- a) aucun avis n'est donné aux termes du présent article;
- b) le locateur ou un locataire peut présenter une requête en vertu de l'article 33 de la présente loi pour faire apporter des modifications ou des ajouts aux renseignements que contient l'avis s'ils le font dans le délai imparti pour présenter une demande en vertu de l'article 58 de la *Loi sur la réglementation des loyers d'habitation*;
- c) le loyer inscrit dans le registre des loyers pour ce logement locatif est réputé le loyer maximal à la date du loyer réel prévue par la *Loi sur la réglementation des loyers d'habitation* si aucune requête qui mènerait à la fixation du loyer maximal n'est présentée en vertu de la présente loi dans le délai énoncé dans l'avis donné en vertu de l'article 59 de la *Loi sur la réglementation des loyers d'habitation*.

#### RENSEIGNEMENTS INSCRITS DANS LE REGISTRE

**112** (1) Le registrateur inscrit dans le registre des loyers les renseignements suivants :

Renseigne-  
ments inscrits

- a) les renseignements déclarés et acceptés aux termes de la présente partie;
- b) les calculs effectués en vertu de l'article 110;
- c) l'ordre donné ou l'ordonnance rendue en vertu de la partie I;
- d) la plus récente ordonnance rendue en vertu de la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)* ou de la loi intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, ou tout arrêté pris, tout ordre donné ou toute ordonnance rendue en vertu de la *Loi sur la réglementation des loyers d'habitation*;
- e) l'augmentation légale qui peut être perçue en vertu de la partie I;
- f) l'augmentation légale qui était permise en vertu de la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)*, de la partie XI de la loi

being chapter 452 of the Revised Statutes of Ontario, 1980, or Part VI of the *Residential Rent Regulation Act*;

- (g) any decrease in maximum rent under section 113;
- (h) any other information necessary to maintain the accuracy and currency of the rent registry; and
- (i) the current maximum rent and the date on which it takes effect, as calculated by the Registrar from the information recorded under clauses (a) to (h).

(2) If the Registrar is satisfied that any information recorded in the rent registry is incorrect due to a clerical error or omission, the Registrar may amend the rent registry accordingly.

(3) Upon amending the rent registry under subsection (2), the Registrar shall notify the affected parties of any amended information.

(4) The current maximum rent recorded in the rent registry for a given date, if any, is deemed to be the maximum rent for the rental unit as of that date.

(5) If the rent referred to in subsection (4) is not set out in an order, the deeming in subsection (4) may be rebutted in any application under this Act in which maximum rent is determined.

#### MISCELLANEOUS

**113.**—(1) The Registrar may decrease the maximum rent in accordance with the prescribed rules and record the decrease in the maximum rent in the registry if,

- (a) a reassessment under the *Assessment Act* in a municipality results in a decrease in the assessed value of a residential complex or a rental unit in it;
- (b) the Council of the municipality by resolution filed with the Registrar requests a decrease in the maximum rent in the affected rental units; and
- (c) the residential complex contains the prescribed number of residential units.

(2) The Registrar shall calculate the decrease in maximum rent requested for each affected rental unit in accordance with the prescribed rules and notify the Council of the results of those calculations.

intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, ou de la partie VI de la *Loi sur la réglementation des loyers d'habitation*;

- g) toute réduction du loyer maximal visée à l'article 113;
- h) tout autre renseignement qui est nécessaire pour que le registre des loyers reste exact et à jour;
- i) le loyer maximal en vigueur, tel que le registrateur l'a calculé d'après les renseignements inscrits aux termes des alinéas a) à h), et la date à laquelle il prend effet.

(2) S'il est convaincu que des renseignements inscrits dans le registre des loyers sont inexacts en raison d'une erreur d'écriture ou d'une omission, le registrateur peut modifier le registre des loyers en conséquence.

(3) Lorsqu'il modifie le registre des loyers aux termes du paragraphe (2), le registrateur avise les parties concernées de tout renseignement modifié.

(4) Le loyer maximal en vigueur qui est inscrit au registre des loyers pour une date donnée, le cas échéant, est réputé le loyer maximal du logement locatif à cette date.

(5) Si le loyer mentionné au paragraphe (4) n'est pas énoncé dans une ordonnance, la présomption visée au paragraphe (4) est réfutable dans une instance introduite en vertu de la présente loi et dans laquelle est fixé le loyer maximal.

#### DISPOSITIONS DIVERSES

**113** (1) Le registrateur peut réduire le loyer maximal conformément aux règles prescrites et inscrire la réduction dans le registre si les conditions suivantes sont réunies :

- a) une nouvelle évaluation foncière effectuée en vertu de la *Loi sur l'évaluation foncière* dans une municipalité a pour résultat une réduction de la valeur, au rôle d'évaluation foncière, de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve;
- b) le conseil de la municipalité demande, par voie de résolution déposée auprès du registrateur, une réduction du loyer maximal des logements locatifs touchés;
- c) l'ensemble d'habitation contient le nombre prescrit d'unités de logement.

(2) Le registrateur calcule la réduction du loyer maximal demandée pour chaque logement locatif touché conformément aux règles prescrites et avise le conseil des résultats de ces calculs.

Clerical  
errors

Idem

Deemed  
maximum

Idem

Lower  
assessment

Idem

Erreurs  
d'écriture

Idem

Loyer maxi-  
mal réputé

Idem

Évaluation  
foncière infé-  
rieure

Idem



Notice

(3) The Council shall give notice of a decrease in maximum rent under this section to the landlord of the residential complex affected by the decrease and to the tenants of any affected rental units.

(3) Le conseil donne un avis de la réduction du loyer maximal visée au présent article au locateur de l'ensemble d'habitation touché par la réduction et aux locataires des logements locatifs touchés.

Avis

Idem

(4) The notice shall set out,

(4) L'avis énonce ce qui suit :

Idem

(a) particulars of the decrease in maximum rent and the reasons for it; and

a) des précisions concernant la réduction du loyer maximal et les motifs de la réduction;

(b) the person's right under section 33 to apply to dispute the accuracy of the decrease in maximum rent or, if the change in assessment has been appealed, to change the amount of the decrease of the maximum rent.

b) le droit de la personne de présenter une requête en vertu de l'article 33 pour contester l'exactitude de la réduction du loyer maximal ou, si le changement apporté à l'évaluation foncière fait l'objet d'un appel, pour faire modifier le montant de la réduction du loyer maximal.

Deduction from rent

(5) Any tenant whose rental unit is affected by a decrease in maximum rent under this section may deduct from future rent payments to the landlord any money the landlord owes to the tenant as a result of the decrease.

(5) Le locataire dont le logement locatif est touché par une réduction du loyer maximal en vertu du présent article peut déduire des loyers futurs à payer au locateur toute somme d'argent que le locateur lui doit par suite de la réduction.

Deduction sur le loyer

Notice re reduction

**114.**—(1) If the maximum rent for a rental unit includes a capital component, the Registrar shall give the landlord and the tenant of the rental unit written notice that the maximum rent will be decreased by the amount of the capital component.

**114** (1) Si le loyer maximal d'un logement locatif comprend un élément d'immobilisations, le registrateur donne au locateur et au locataire du logement locatif un avis par écrit du fait que le loyer maximal sera réduit du montant de l'élément d'immobilisations.

Avis concernant la réduction

Idem

(2) The Registrar shall give the written notice at least six months before the date on which that capital component is to be deducted from the maximum rent according to the most recent finding under clause 20 (1) (h) or determination under clause 22 (3) (d) that refers to that capital component.

(2) Le registrateur donne l'avis par écrit au moins six mois avant la date à laquelle cet élément d'immobilisations doit être déduit du loyer maximal selon la plus récente conclusion aux termes de l'alinéa 20 (1) h) ou décision aux termes de l'alinéa 22 (3) d) concernant cet élément d'immobilisations.

Idem

Reduction of maximum rent

**115.**—(1) If the maximum rent for a rental unit includes a capital component, the Registrar shall decrease the maximum rent for the rental unit by the amount of that capital component.

**115** (1) Si le loyer maximal d'un logement locatif comprend un élément d'immobilisations, le registrateur réduit le loyer maximal du logement locatif du montant de l'élément d'immobilisations.

Réduction du loyer maximal

Idem

(2) The effective date of the decrease shall be the date for the decrease set out in the most recent finding under clause 20 (1) (h) or determination under clause 22 (3) (d) that refers to that capital component.

(2) La date de prise d'effet de la réduction correspond à la date prévue pour la réduction dans la plus récente conclusion aux termes de l'alinéa 20 (1) h) ou décision aux termes de l'alinéa 22 (3) d) concernant cet élément d'immobilisations.

Idem

Information

**116.**—(1) The Registrar shall provide a person with information that is recorded in the rent registry respecting a rental unit if the person requests that information in the prescribed manner.

**116** (1) Le registrateur fournit à une personne des renseignements inscrits dans le registre des loyers à l'égard d'un logement locatif si elle en fait la demande de la manière prescrite.

Renseignements

Idem

(2) The Registrar may provide a person with information that is recorded in the rent registry respecting a rental unit if he or she believes it is appropriate to do so.

(2) Le registrateur peut fournir à une personne des renseignements inscrits dans le registre des loyers à l'égard d'un logement locatif s'il le juge approprié.

Idem



Information on  
rental

(3) The Registrar may limit the information provided in accordance with the prescribed rules.

(3) Le registrateur peut limiter les renseignements fournis conformément aux règles prescrites.

Renseignements limités

Personal information

(4) The Registrar may provide the landlord's name and address under this section.

(4) Le registrateur peut fournir le nom et l'adresse du locateur en vertu du présent article.

Renseignements personnels

Form of information

(5) The Registrar may provide the information on paper or in electronic, photographic or other form.

(5) Le registrateur peut fournir les renseignements sur papier, sur support électronique ou photographique ou sur un support d'une autre forme.

Support de l'information

Fees

(6) The Registrar may charge the prescribed fees for providing the information.

(6) Le registrateur peut demander les droits prescrits pour fournir les renseignements.

Droits

PART IV  
GENERAL

PARTIE IV  
DISPOSITIONS GÉNÉRALES

Record

117. In this Part, "record" includes a book of account, bank book, voucher, receipt, correspondence and any other document regardless of whether the document is on paper or is in electronic, photographic or other form.

117 Dans la présente partie, «dossier» s'entend notamment d'un livre de comptes, d'un carnet de banque, d'une pièce comptable, d'un reçu, de la correspondance et de tout autre document, que le document soit sur papier, sur support électronique ou photographique ou sous une autre forme.

Dossier

Administration

118.—(1) The Minister is responsible for the administration of this Act.

118 (1) Le ministre est chargé de l'application de la présente loi.

Application de la Loi

Delegation

(2) The Minister may in writing delegate any power or duty granted to or vested in the Minister under this Act to any officer or employee of the Ministry, subject to the conditions set out in the delegation.

(2) Le ministre peut déléguer par écrit, à tout fonctionnaire ou employé du ministère, les pouvoirs et les fonctions que lui confère la présente loi, sous réserve des conditions énoncées dans l'acte de délégation.

Délégation

Duties of Minister

119. The Minister shall,  
(a) where the circumstances warrant, commence or cause to be commenced proceedings in respect of an alleged failure to comply with this Act or an order made under it; and  
(b) take an active role in ensuring, by any suitable method, including the making of grants, that landlords and tenants are aware of the benefits and obligations under this Act and the *Landlord and Tenant Act*.

119 Le ministre :  
a) lorsque les circonstances le justifient, introduit ou fait introduire des instances à l'égard d'un prétendu défaut de se conformer à la présente loi, ou à un ordre donné ou une ordonnance rendue en vertu de celle-ci;  
b) prend des mesures positives pour veiller, par n'importe quel moyen approprié, dont l'octroi de subventions, à ce que les locateurs et les locataires connaissent les avantages et les obligations prévus par la présente loi et la *Loi sur la location immobilière*.

Fonctions du ministre

Director

120.—(1) The Minister shall appoint an employee of the Ministry to be the Director of Rent Control.

120 (1) Le ministre nomme un employé du ministère au poste de directeur du contrôle des loyers.

Directeur

Delegation

(2) The Director may in writing delegate any power or duty granted to or vested in the Director under this Act to any employee or agent of the Ministry, subject to the conditions set out in the delegation.

(2) Le directeur peut déléguer par écrit, à tout employé ou représentant du ministère, les pouvoirs et les fonctions que lui confère la présente loi, sous réserve des conditions énoncées dans l'acte de délégation.

Délégation

Duties of Director

(3) In addition to the other duties given to the Director under this Act, the Director shall,  
(a) investigate cases of alleged failure to comply with this Act or orders made under it;

(3) Outre les autres fonctions qui lui sont conférées par la présente loi, le directeur :  
a) fait enquête sur les cas de prétendus défauts de se conformer à la présente

Fonctions du directeur

(b) monitor compliance with this Act; and

(c) ensure that the prescribed maintenance standards are being complied with.

Exclusive jurisdiction

**121.**—(1) The Director has exclusive jurisdiction respecting any matter or thing in respect of which a power, authority or discretion is conferred upon the Director.

Rules and policies

(2) The Director shall observe the prescribed procedural and interpretative rules and policies in interpreting this Act and exercising a power or discretion conferred by it.

Inspectors

**122.**—(1) The Director may appoint inspectors for the purposes of this Act.

Certificate of appointment

(2) The Director shall issue a certificate of appointment bearing his or her signature or a facsimile of it to every inspector.

Production of certificate

(3) An inspector who is exercising a power of entry shall produce his or her certificate of appointment.

Duties of inspectors

**123.**—(1) An inspector shall carry out the duties assigned to him or her by the Director.

Powers

(2) An inspector may exercise any of the powers set out in subsection (3) if he or she does so between the hours of 7 a.m. and 9 p.m. having first given reasonable prior notice and if the power is being exercised,

(a) to determine whether this Act applies to a residential complex or a rental unit in it;

(b) to inspect premises to determine whether a landlord has complied with a prescribed maintenance standard;

(c) to determine whether a residential complex has been adequately maintained;

(d) to determine whether the work giving rise to a capital expenditure has been completed;

(e) to determine whether services and facilities have been discontinued or reduced.

Idem

(3) An inspector exercising a power for a purpose under subsection (2) may,

(a) enter any place;

loi ou aux ordres donnés ou ordonnances rendues en vertu de celle-ci;

b) s'assure que la présente loi est observée;

c) veille à ce que les normes d'entretien prescrites soient observées.

**121** (1) Le directeur a compétence exclusive en ce qui concerne toute question ou chose à l'égard de laquelle un pouvoir, notamment un pouvoir discrétionnaire, ou une autorisation lui est conféré.

Compétence exclusive

(2) Le directeur observe les règles et politiques de procédure et d'interprétation prescrites lorsqu'il interprète la présente loi et qu'il exerce un pouvoir, notamment un pouvoir discrétionnaire, que lui confère celle-ci.

Règles et politiques

**122** (1) Le directeur peut nommer des inspecteurs pour l'application de la présente loi.

Inspecteurs

(2) Le directeur délivre à chaque inspecteur une attestation de nomination portant sa signature ou un fac-similé de celle-ci.

Attestation de nomination

(3) L'inspecteur qui exerce le pouvoir de pénétrer produit son attestation de nomination.

Production de l'attestation

**123** (1) L'inspecteur exerce les fonctions que lui assigne le directeur.

Fonctions inspecteurs

(2) L'inspecteur peut, après avoir donné un avis dans un délai raisonnable, exercer l'un quelconque des pouvoirs énoncés au paragraphe (3) s'il le fait entre 7 h et 21 h et que le pouvoir est exercé dans un ou plusieurs des buts suivants :

Pouvoir

a) déterminer si la présente loi s'applique à l'ensemble d'habitation ou à un logement locatif qui s'y trouve;

b) inspecter les lieux pour déterminer si le locateur a observé une norme d'entretien prescrite;

c) déterminer si l'ensemble d'habitation a été entretenu de façon adéquate;

d) déterminer si les travaux qui donnent lieu à une dépense en immobilisations ont été achevés;

e) déterminer si des services et installations ont été interrompus ou réduits.

(3) L'inspecteur qui exerce un pouvoir dans l'un des buts visés au paragraphe (2) peut faire ce qui suit :

Idem

a) pénétrer dans un endroit;



- (b) require the production of and inspect any records or other things that may be relevant to the inspection;
- (c) inquire into any matters that may be relevant to the inspection; and
- (d) take any photographs that may be relevant to the inspection.

Power to  
remove  
things

(4) Upon giving a receipt for them, an inspector may remove from a place records or other things that may be relevant to the inspection to make copies or extracts from them or to hold them as evidence.

Return

(5) An inspector shall promptly return any records or other things he or she has removed unless they are being held as evidence and copies of them cannot be made.

Idem

(6) The Director shall ensure that if a record or other thing is being held as evidence by the Ministry,

- (a) the person from whom it was taken may have access to it; and
- (b) it is returned to the person as soon as it is no longer needed as evidence.

Expert assistance

(7) An inspector may call upon any expert he or she considers necessary to assist in the inspection.

Entry to  
dwellings

(8) If the occupier of a place that is being used as a dwelling gives his or her consent, an inspector may exercise any of the powers set out in subsection (3) at any time and without giving prior notice, but if that consent is not given the inspector shall not exercise such a power except under the authority of a search warrant issued under section 124.

Idem

(9) A consent under subsection (8) is not valid unless before obtaining it the inspector informs the occupier that he or she may refuse to consent to the exercise of a power under subsection (3) and that without the occupier's consent the inspector is not permitted to exercise that power without the authority of a search warrant.

Entry to  
common  
areas

(10) If the occupier of a rental unit who is permitted access to a common area gives his or her consent, an inspector may exercise a power of entry set out in subsection (3) to enter that common area at any time and without giving prior notice.

Search  
warrant

**124.—(1)** A justice of the peace may issue a search warrant in the prescribed form authorizing an inspector to enter any place and exercise any of the powers under section 123 if the justice is satisfied by information

- b) exiger la production des dossiers ou autres choses qui peuvent se rapporter à l'inspection, et examiner ceux-ci;
- c) enquêter sur les questions qui peuvent se rapporter à l'inspection;
- d) prendre les photographies qui peuvent se rapporter à l'inspection.

Pouvoir d'en-  
lever des cho-  
ses

(4) Après avoir donné un récépissé à cet effet, l'inspecteur peut enlever d'un endroit des dossiers ou d'autres choses qui peuvent se rapporter à l'inspection pour en tirer des copies ou des extraits ou pour les conserver comme preuve.

Remise

(5) L'inspecteur rend promptement les dossiers ou les autres choses qu'il a enlevés, à moins qu'ils ne soient conservés comme preuve et qu'il ne soit impossible d'en tirer des copies.

Idem

(6) Si un dossier ou une autre chose est conservé comme preuve par le ministère, le directeur veille à ce qui suit :

- a) la personne à qui le dossier ou la chose a été enlevé peut y avoir accès;
- b) le dossier ou la chose est rendu à la personne dès qu'il n'est plus nécessaire à titre de preuve.

Aide d'ex-  
perts

(7) L'inspecteur peut faire appel aux experts qu'il estime nécessaires pour l'aider à faire l'inspection.

Accès à des  
habitations

(8) Si l'occupant d'un endroit utilisé comme habitation donne son consentement, l'inspecteur peut exercer l'un quelconque des pouvoirs énoncés au paragraphe (3) à n'importe quel moment sans avoir à donner de préavis; sans ce consentement, l'inspecteur ne doit pas exercer un tel pouvoir si ce n'est en vertu d'un mandat de perquisition décerné en vertu de l'article 124.

Idem

(9) Le consentement visé au paragraphe (8) n'est pas valide à moins que l'inspecteur, avant de l'obtenir, n'informe l'occupant qu'il peut refuser de donner son consentement à l'égard de l'exercice du pouvoir visé au paragraphe (3) et que, sans le consentement de l'occupant, il n'est pas permis à l'inspecteur d'exercer ce pouvoir sans mandat de perquisition.

Accès à des  
aires commu-  
nes

(10) Si l'occupant d'un logement locatif qui a accès à une aire commune donne son consentement, l'inspecteur peut exercer le pouvoir de pénétrer visé au paragraphe (3) pour pénétrer dans cette aire commune à n'importe quel moment sans avoir à donner de préavis.

Mandat de  
perquisition

**124 (1)** Un juge de paix peut décerner un mandat de perquisition, rédigé selon la formule prescrite, autorisant l'inspecteur à pénétrer dans un endroit et à exercer les pouvoirs qui lui sont conférés à l'article 123



upon oath that there are reasonable and probable grounds to believe that,

- (a) an offence under this Act has been committed; and
- (b) entering and exercising those powers will afford evidence as to the commission of the offence.

si le juge est convaincu, sur la foi d'une dénonciation faite sous serment, qu'il existe des motifs raisonnables et probables de croire que :

- a) d'une part, une infraction à la présente loi a été commise;
- b) d'autre part, le fait de pénétrer et d'exercer ces pouvoirs permettra de fournir une preuve de la perpétration de l'infraction.

Return

(2) The inspector shall promptly return any records or other things he or she has removed unless they are being held as evidence and copies of them cannot be made.

(2) L'inspecteur rend promptement les dossiers ou les autres choses qu'il a enlevés, à moins qu'ils ne soient conservés comme preuve et qu'il ne soit impossible d'en tirer des copies.

Remise

Idem

(3) The Director shall ensure that if a record or other thing is being held as evidence by the Ministry,

(3) Si un dossier ou une autre chose est conservé comme preuve par le ministère, le directeur veille à ce qui suit :

Idem

- (a) the person from whom it was taken may have access to it; and
- (b) it is returned to the person as soon as it is no longer needed as evidence.

- a) la personne à qui le dossier ou la chose a été enlevé peut y avoir accès;
- b) le dossier ou la chose est rendu à la personne dès qu'il n'est plus nécessaire à titre de preuve.

Additional authority

(4) A search warrant authorizes the inspector to call upon any expert he or she considers necessary to assist in executing it and to use any data storage, processing or retrieval device or system necessary to produce a record in readable form.

(4) Le mandat de perquisition autorise l'inspecteur à faire appel aux experts qu'il estime nécessaires pour l'aider à exécuter le mandat, et à utiliser les dispositifs ou les systèmes de mise en mémoire, de traitement ou d'extraction des données nécessaires à la production d'un dossier sous une forme lisible.

Autorisation supplémentaire

Execution and expiry

(5) A search warrant shall specify the hours and days during which it may be executed and shall name a date on which it expires, which date shall not be later than thirty days after its issue.

(5) Le mandat de perquisition précise les heures et les jours où il peut être exécuté. Il précise aussi sa date d'expiration, laquelle ne peut pas tomber plus de trente jours après la date à laquelle il est décerné.

Exécution et expiration

Extension of time

(6) A justice of the peace may extend the date on which a search warrant expires for a period of no more than thirty days upon motion by the inspector named in it and may do so before or after it expires.

(6) Un juge de paix peut reporter d'une période de trente jours au plus la date d'expiration d'un mandat de perquisition sur motion de l'inspecteur nommé dans le mandat, avant ou après la date d'expiration du mandat.

Prorogation du délai

Time of execution

(7) A search warrant shall be executed between the hours of 7 a.m. and 9 p.m. unless it provides otherwise.

(7) Le mandat de perquisition est exécuté entre 7 h et 21 h, à moins qu'il ne le prévoit autrement.

Heures d'exécution

Person to assist with records

(8) A person who is required to produce a record for an inspector shall, on request, provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system, to produce a record in readable form.

(8) La personne qui est tenue de produire un dossier pour un inspecteur fournit, sur demande, l'aide qui est raisonnablement nécessaire. Elle utilise notamment les dispositifs ou les systèmes de mise en mémoire, de traitement ou d'extraction des données nécessaires à la production d'un dossier sous une forme lisible.

Obligation d'aider

Admissibility of copies

**125.** A copy of or extract from a record made by or for an inspector exercising a power under section 123 or 124 is admissible in evidence as proof, in the absence of evidence to the contrary, of the original if it is certified as being a true copy of or extract from the original by the person who made it.

**125** La copie ou l'extrait d'un dossier qui a été tiré par l'inspecteur qui exerce un pouvoir en vertu de l'article 123 ou 124, ou qui a été tiré pour lui, est admissible en preuve et fait foi de l'original, en l'absence de preuve contraire, si cette copie ou cet extrait est cer-

Admissibilité des copies

Rent officers

**126.**—(1) The Director shall appoint rent officers for the purposes of this Act.

Chief Rent Officers

(2) The Director shall select a rent officer from each region to be the Chief Rent Officer for that region.

Delegation

(3) A Chief Rent Officer may delegate any power or duty granted to or vested in him or her under this Act to any rent officer, subject to the conditions set out in the delegation.

Idem

(4) A Chief Rent Officer may delegate any power or duty granted to or vested in him or her under this Act, other than a statutory power of decision, to an employee or agent of the Ministry, subject to the conditions set out in the delegation.

Exclusive jurisdiction

**127.**—(1) Except where Part I gives jurisdiction to the Director or to the court, rent officers have exclusive jurisdiction to examine into and determine all proceedings under Part I.

Idem

(2) Rent officers have exclusive jurisdiction respecting any matter or thing in respect of which a power, authority or discretion is conferred upon them.

Rules and policies

(3) A rent officer shall observe the prescribed procedural and interpretative rules and policies in interpreting this Act and exercising a power or discretion conferred by it.

Professional assistance

(4) Subject to any conditions the Minister may set, a Chief Rent Officer may engage persons other than employees of the Ministry to provide professional, technical or other assistance to a rent officer and may establish the duties and terms of the engagement and provide for the payment of the remuneration and expenses of those persons.

Registrar

**128.**—(1) The Director shall appoint a Registrar for the purposes of Part III.

Delegation

(2) The Registrar may in writing delegate any power or duty granted to or vested in the Registrar under this Act to any employee or agent of the Ministry, subject to the conditions set out in the delegation.

Exclusive jurisdiction

**129.**—(1) The Registrar has exclusive jurisdiction respecting any matter or thing in respect of which a power, authority or discretion is conferred upon the Registrar.

Rules and policies

(2) The Registrar shall observe the prescribed procedural and interpretative rules

tifié conforme à l'original par la personne qui l'a fait.

**126** (1) Le directeur nomme des agents des loyers pour l'application de la présente loi.

Agents des loyers

(2) Le directeur choisit un agent des loyers de chaque région comme agent principal des loyers de la région.

Agents principaux des loyers

(3) L'agent principal des loyers peut déléguer à tout agent des loyers les pouvoirs et les fonctions que lui confère la présente loi, sous réserve des conditions énoncées dans l'acte de délégation.

Délégation

(4) L'agent principal des loyers peut déléguer à un employé ou à un représentant du ministère les pouvoirs et les fonctions que lui confère la présente loi, à l'exception d'une compétence légale de décision et sous réserve des conditions énoncées dans l'acte de délégation.

Idem

**127** (1) Sauf lorsque la partie I donne la compétence au directeur ou au tribunal, les agents des loyers ont compétence exclusive pour instruire et juger toutes les instances introduites en vertu de la partie I.

Compétence exclusive

(2) Les agents des loyers ont compétence exclusive en ce qui concerne toute question ou chose à l'égard de laquelle un pouvoir, notamment un pouvoir discrétionnaire, ou une autorisation leur est conféré.

Idem

(3) L'agent des loyers observe les règles et politiques de procédure et d'interprétation prescrites lorsqu'il interprète la présente loi et qu'il exerce un pouvoir, notamment un pouvoir discrétionnaire, que lui confère celle-ci.

Règles et politiques

(4) Sous réserve des conditions que peut fixer le ministre, l'agent principal des loyers peut engager des personnes autres que des employés du ministère pour fournir une aide professionnelle, technique ou autre à un agent des loyers, et il peut établir les fonctions et les conditions d'emploi de ces personnes et prévoir le versement de la rémunération et des indemnités de celles-ci.

Aide professionnelle

**128** (1) Le directeur nomme un registraire pour l'application de la partie III.

Registraire

(2) Le registraire peut déléguer par écrit, à tout employé ou représentant du ministère, les pouvoirs et les fonctions que lui confère la présente loi, sous réserve des conditions énoncées dans l'acte de délégation.

Délégation

**129** (1) Le registraire a compétence exclusive en ce qui concerne toute question ou chose à l'égard de laquelle un pouvoir, notamment un pouvoir discrétionnaire, ou une autorisation lui est conféré.

Compétence exclusive

(2) Le registraire observe les règles et politiques de procédure et d'interprétation

Règles et politiques



and policies in interpreting this Act and exercising a power or discretion conferred by it.

prescrites lorsqu'il interprète la présente loi et qu'il exerce un pouvoir, notamment un pouvoir discrétionnaire, que lui confère celle-ci.

## Prohibition

**130.**—(1) No person shall knowingly hinder, obstruct or interfere with a tenant in the exercise of the right to organize or participate in an organization the purpose of which is to secure and enforce the rights established under this Act or under section 119 of the *Residential Rent Regulation Act*.

**130** (1) Nul ne doit sciemment gêner, empêcher ou entraver l'exercice, par un locataire, du droit de former une association dont le but est d'obtenir et de faire respecter les droits établis par la présente loi ou par l'article 119 de la *Loi sur la réglementation des loyers d'habitation*, ou d'en faire partie.

## Interdiction

## Idem

(2) No person shall knowingly harass a tenant with intent to prevent or discourage the tenant from securing or enforcing rights under this Act.

(2) Nul ne doit sciemment harceler un locataire dans le but de l'empêcher d'obtenir ou de faire respecter des droits en vertu de la présente loi, ou de l'en décourager.

## Idem

## Proof of filed documents

**131.**—(1) The production by a person prosecuting a person for an offence under this Act of a certificate, statement or document that appears to have been filed with or delivered to the Ministry by or on behalf of the person charged with the offence shall be received as evidence that the certificate, statement or document was so filed or delivered.

**131** (1) La production, par une personne qui intente une poursuite contre une autre personne relativement à une infraction à la présente loi, d'une attestation, d'une déclaration ou d'un document qui semble avoir été déposé auprès du ministère ou remis à celui-ci par la personne inculpée ou pour le compte de celle-ci est admissible en preuve comme preuve du fait que l'attestation, la déclaration ou le document a été ainsi déposé ou remis.

## Preuve de documents déposés

## Proof of making

(2) The production by a person prosecuting a person for an offence under this Act of a certificate, statement or document that appears to have been made or signed by the person charged with the offence or on the person's behalf shall be received as evidence that the certificate, statement or document was so made or signed.

(2) La production, par une personne qui intente une poursuite contre une autre personne relativement à une infraction à la présente loi, d'une attestation, d'une déclaration ou d'un document qui semble avoir été fait ou signé par la personne inculpée ou pour le compte de celle-ci est admissible en preuve comme preuve du fait que l'attestation, la déclaration ou le document a été ainsi fait ou signé.

## Preuve de la signature

## Fees

**132.**—(1) The Director, the Registrar or a Chief Rent Officer may charge and collect the prescribed fees for providing to a person, at his or her request, copies of forms, notices or documents filed with or issued by him or her.

**132** (1) Le directeur, le registrateur ou l'agent principal des loyers peut demander et percevoir les droits prescrits pour fournir à une personne, à sa demande, des copies de formules, d'avis ou de documents déposés auprès de lui ou délivrés par lui.

## Droits

## Form of copies

(2) The Director, the Registrar or a Chief Rent Officer may provide those copies on paper or in electronic, photographic or other form.

(2) Le directeur, le registrateur ou l'agent principal des loyers peut fournir ces copies sur papier, sur support électronique ou photographique ou sous une autre forme.

## Forme des copies

## Immunity

**133.**—(1) No proceeding for compensation or damages shall be instituted against any officer or employee of the Ministry or any agent retained by the Ministry for any act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

**133** (1) Sont irrecevables les instances en indemnisation ou en dommages-intérêts introduites contre un fonctionnaire ou un employé du ministère ou un représentant engagé par le ministère pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel des fonctions de la personne ou pour une négligence ou un manquement qui lui sont imputés dans l'exercice de bonne foi de ses fonctions.

## Immunité

## Liability of Crown

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a per-

(2) Malgré les paragraphes 5 (2) et (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard

## Responsabilité de la Couronne



son mentioned in subsection (1) to which it would otherwise be subject.

**134.**—(1) A person is guilty of an offence if the person knowingly,

- (a) furnishes false or misleading information in any application, document, written submission or statement made to the Director, the Registrar, a rent officer or an inspector or in any proceeding under this Act;
- (b) furnishes false or misleading information under subsection 7 (3);
- (c) increases or attempts to increase the rent charged for a rental unit in contravention of section 6 or 11;
- (d) charges or collects or attempts to charge or collect rent in contravention of section 19;
- (e) charges or attempts to charge rent for a rental unit in an amount greater than that permitted under this Act;
- (f) contravenes section 31 (additional charges prohibited);
- (g) fails to obey a work order under section 37;
- (h) charges or attempts to charge a fee in contravention of subsection 99 (1);
- (i) fails to file a statement of rent information under section 104 within the time required by that section or by section 109;
- (j) obstructs or interferes or attempts to obstruct or interfere with an inspector exercising a power under section 123 or 124 (right of entry);
- (k) refuses to provide any information or to produce any record or other thing required by an inspector exercising a power under section 123 or 124;

(l) contravenes section 130.

(2) Every director or officer of a corporation who knowingly concurs in an offence is guilty of an offence.

(3) An individual who is convicted of an offence is liable to a fine of no more than \$5,000.

d'un délit civil commis par une personne visée au paragraphe (1).

**134** (1) Est coupable d'une infraction quiconque, sciemment :

- a) fournit des renseignements faux ou trompeurs dans une demande ou une requête, un document, une observation écrite ou une déclaration présentés au directeur, au registrateur, à un agent des loyers ou à un inspecteur ou dans une instance introduite en vertu de la présente loi;
- b) fournit des renseignements aux termes du paragraphe 7 (3) qui sont faux ou trompeurs;
- c) augmente ou tente d'augmenter le loyer demandé pour un logement locatif contrairement à l'article 6 ou 11;
- d) demande ou perçoit, ou tente de demander ou de percevoir, un loyer contrairement à l'article 19;
- e) demande ou tente de demander, pour un logement locatif, un loyer d'un montant supérieur à celui que permet la présente loi;
- f) contrevient à l'article 31 (charges supplémentaires interdites);
- g) omet de se conformer à un ordre d'exécution de travaux visé à l'article 37;
- h) demande ou tente de demander des honoraires qui contreviennent au paragraphe 99 (1);
- i) omet de déposer une déclaration de renseignements sur les loyers aux termes de l'article 104 dans le délai imparti par cet article ou l'article 109;
- j) empêche ou entrave ou tente d'empêcher ou d'entraver l'exercice par un inspecteur d'un pouvoir qui lui est conféré par l'article 123 ou 124 (droit de pénétrer);
- k) refuse de fournir des renseignements ou de produire un dossier ou une autre chose qu'un inspecteur demande dans l'exercice d'un pouvoir qui lui est conféré par l'article 123 ou 124;

l) contrevient à l'article 130.

(2) Chaque administrateur ou dirigeant d'une personne morale qui participe sciemment à la perpétration d'une infraction est coupable d'une infraction.

(3) Le particulier qui est reconnu coupable d'une infraction est passible d'une amende d'au plus 5 000 \$.

Idem

Infractions

Idem

Amende

Penalty

Idem	(4) A person other than an individual who is convicted of an offence is liable to a fine of no more than \$50,000.	(4) La personne autre qu'un particulier qui est reconnue coupable d'une infraction est passible d'une amende d'au plus 50 000 \$.	Idem
Limitation	(5) No proceeding shall be commenced respecting an offence under clause (1) (a) more than two years after the date on which the facts giving rise to the offence came to the attention of the Ministry.	(5) Est irrecevable l'instance à l'égard d'une infraction prévue à l'alinéa (1) a) qui est introduite plus de deux ans après la date à laquelle les faits qui ont donné lieu à l'infraction sont venus à la connaissance du ministère.	Prescription
Idem	(6) No proceeding shall be commenced respecting any other offence under subsection (1) more than two years after the date on which the offence was, or is alleged to have been, committed.	(6) Est irrecevable l'instance à l'égard d'une autre infraction prévue au paragraphe (1) qui est introduite plus de deux ans après la date de la perpétration ou de la perpétration présumée de l'infraction.	Idem
Continuing offence	(7) An offence under clause (1) (i) continues to be an offence until the statement is filed.	(7) Une infraction visée à l'alinéa (1) i) continue d'être une infraction jusqu'à ce que la déclaration soit déposée.	Infraction continue
Regulations	<p><b>135.</b>—(1) The Lieutenant Governor in Council may make regulations,</p> <ol style="list-style-type: none"> <li>1. prescribing the circumstances under which a group of buildings is related for the purposes of subsection 1 (3);</li> <li>2. prescribing the form of a notice for the purpose of clause 3 (7) (b);</li> <li>3. prescribing the form of the notice of rent increase;</li> <li>4. prescribing the Table setting out the weights and operating cost categories needed to calculate the guideline;</li> <li>5. prescribing the manner of determining the date on which two consecutive years is to start, for the purposes of subsection 7 (3);</li> <li>6. providing that under certain circumstances an amount other than the rent actually charged shall be used in the place of the rent actually charged for the purposes of subsections 10 (7) and (9) and paragraph 5 of subsection 105 (1), prescribing those circumstances and prescribing rules for determining that amount;</li> <li>7. prescribing interest rates on capital expenditures for the purposes of subsection 20 (5);</li> <li>8. prescribing the useful life of work done or a thing purchased for the purposes of section 20;</li> <li>9. prescribing rules for increasing or decreasing an amount set out in an advance determination for the purpose of an order under section 21;</li> <li>10. prescribing the manner of adjusting the maximum rent under <u>subsections 28 (5) and (6)</u>;</li> </ol>	<p><b>135</b> (1) Le lieutenant-gouverneur en conseil peut, par règlement :</p> <ol style="list-style-type: none"> <li>1. prescrire les circonstances dans lesquelles un groupe d'immeubles est connexe pour l'application du paragraphe 1 (3);</li> <li>2. prescrire la formule de l'avis pour l'application de l'alinéa 3 (7) b);</li> <li>3. prescrire la formule de l'avis d'augmentation de loyer;</li> <li>4. prescrire le barème énonçant la pondération et les catégories de frais d'exploitation nécessaires au calcul du taux légal;</li> <li>5. prescrire la manière de fixer la date à laquelle doivent commencer deux années consécutives pour l'application du paragraphe 7 (3);</li> <li>6. prévoir que, dans certaines circonstances, un montant autre que le loyer réellement demandé soit utilisé à la place de celui-ci pour l'application des paragraphes 10 (7) et (9) et de la disposition 5 du paragraphe 105 (1), et prescrire ces circonstances ainsi que les règles pour déterminer ce montant;</li> <li>7. prescrire les taux d'intérêt sur les dépenses en immobilisations pour l'application du paragraphe 20 (5);</li> <li>8. prescrire, pour l'application de l'article 20, la vie utile de travaux effectués ou d'une chose achetée;</li> <li>9. prescrire les règles pour augmenter ou réduire un montant fixé dans une décision anticipée aux fins d'une ordonnance visée à l'article 21;</li> <li>10. prescrire la manière de rajuster le loyer maximal aux termes <u>des paragraphes 28 (5) et (6)</u>;</li> </ol>	Règlements



11. prescribing the rules for determining the prescribed part of an allowance for the purposes of subsection 20 (8) or the prescribed part of a justified amount for the purposes of subsection 22 (4);
12. prescribing other matters to be determined for the purposes of clause 29 (2) (d);
13. prescribing the form of notice abandoning the amount by which a claim under section 30 or 32 exceeds the monetary jurisdiction of the Small Claims Court;
14. prescribing rules for calculating interest under section 30 or 32;
15. prescribing other matters that may be the subject of an application under section 33;
16. prescribing maintenance standards for the purposes of section 36;
17. prescribing rules for making findings for orders under Part I;
18. prescribing the periods for which findings should be made for an order under Part I;
19. prescribing separate charges which may be equalized immediately for the purposes of section 45;
20. prescribing rules for increasing or decreasing maximum rent for the purposes of section 46;
21. prescribing services, facilities, privileges, accommodations and things for the purposes of paragraph 2 of subsection 46 (1);
22. prescribing the method of determining maximum rent for the purposes of Part I;
23. establishing regions in Ontario for the purposes of this Act;
24. prescribing rules for the computation of time for the purpose of subsection 49 (6);
25. prescribing forms of applications under Part I and material to be furnished in respect of an application;
26. prescribing the form of a cost statement under clause 53 (b);
27. prescribing other material to be filed with an application for the purpose of clause 53 (c);
11. prescrire les règles pour déterminer la partie prescrite d'un montant reconnu pour l'application du paragraphe 20 (8) ou la partie prescrite d'un montant justifié pour l'application du paragraphe 22 (4);
12. prescrire d'autres questions à trancher pour l'application de l'alinéa 29 (2) d);
13. prescrire la formule de l'avis de renonciation à la partie du montant, dans le cadre d'une requête visée à l'article 30 ou 32, qui dépasse le montant de la compétence d'attribution de la Cour des petites créances;
14. prescrire des règles pour calculer l'intérêt prévu à l'article 30 ou 32;
15. prescrire d'autres questions qui peuvent faire l'objet d'une requête visée à l'article 33;
16. prescrire des normes d'entretien pour l'application de l'article 36;
17. prescrire des règles pour émettre des conclusions pour les ordres et les ordonnances visés à la partie I;
18. prescrire les périodes à l'égard desquelles des conclusions devraient être émises pour un ordre ou une ordonnance visé à la partie I;
19. prescrire des charges distinctes qui peuvent faire l'objet d'une péréquation immédiate pour l'application de l'article 45;
20. prescrire des règles pour augmenter ou réduire le loyer maximal pour l'application de l'article 46;
21. prescrire des services, installations, privilèges, commodités et choses pour l'application de la disposition 2 du paragraphe 46 (1);
22. prescrire la méthode pour déterminer le loyer maximal pour l'application de la partie I;
23. créer des régions en Ontario pour l'application de la présente loi;
24. prescrire des règles de calcul des délais pour l'application du paragraphe 49 (6);
25. prescrire les formules de requêtes présentées en vertu de la partie I et les pièces qui doivent être fournies à l'égard d'une requête;
26. prescrire la formule d'un état des dépenses visé à l'alinéa 53 b);
27. prescrire d'autres pièces qui doivent être déposées avec une requête pour l'application de l'alinéa 53 c);



28. prescribing, for the purpose of section 99, the allowed amount of a contingency fee;
29. prescribing procedural and interpretative rules and policies to be observed by the Director, the Registrar and rent officers in the interpretation of this Act or when exercising any power or discretion conferred under this Act;
30. prescribing, for the purposes of section 104, the form of statement of rent information;
31. prescribing, for the purposes of section 103, the form of statement;
32. prescribing other information to be included in a statement under section 103;
33. prescribing, for the purposes of subsection 104 (2), the date for filing a statement of rent information;
34. prescribing, for the purposes of subsection 105 (1), other information that shall be set out in a statement of rent information;
35. prescribing, for the purposes of section 107, the form of statement of change of information;
36. prescribing changes of information that are or are not necessary to maintain the accuracy and currency of the rent registry;
37. prescribing the time before which the Registrar shall make the determinations under section 110 and give notices of rent information under section 111;
38. prescribing rules for calculating maximum rent under section 110;
39. prescribing, for the purposes of subsection 111 (3), the circumstances under which the Registrar is not required to give a notice of rent information;
40. prescribing rules the Registrar shall follow for decreasing maximum rent and selecting the date on which a decrease takes effect for the purposes of subsection 113 (1) (lower assessment);
41. prescribing the number of residential units in a residential complex for the purposes of clause 113 (1) (c);
28. prescrire, pour l'application de l'article 99, le montant permis pour les honoraires conditionnels;
29. prescrire les règles et politiques de procédure et d'interprétation que le directeur, le registrateur et les agents des loyers doivent observer lorsqu'ils interprètent la présente loi ou qu'ils exercent un pouvoir, notamment un pouvoir discrétionnaire, que leur confère celle-ci;
30. prescrire, pour l'application de l'article 104, la formule de la déclaration de renseignements sur les loyers;
31. prescrire, pour l'application de l'article 103, la formule de la déclaration;
32. prescrire les autres renseignements que doit contenir la déclaration prévue à l'article 103;
33. prescrire, pour l'application du paragraphe 104 (2), la date de dépôt d'une déclaration de renseignements sur les loyers;
34. prescrire, pour l'application du paragraphe 105 (1), d'autres renseignements qui doivent être fournis dans une déclaration de renseignements sur les loyers;
35. prescrire, pour l'application de l'article 107, la formule de la déclaration modifiant les renseignements sur les loyers;
36. prescrire les modifications qui doivent être apportées aux renseignements pour que le registre des loyers reste exact et à jour, ou celles qui ne sont pas nécessaires à cette fin;
37. prescrire le délai dans lequel le registrateur doit rendre les décisions aux termes de l'article 110 et donner des avis de renseignements sur les loyers aux termes de l'article 111;
38. prescrire des règles pour calculer le loyer maximal aux termes de l'article 110;
39. prescrire, pour l'application du paragraphe 111 (3), les circonstances dans lesquelles le registrateur n'est pas tenu de donner un avis de renseignements sur les loyers;
40. prescrire des règles que le registrateur doit suivre pour réduire le loyer maximal et fixer la date à laquelle une réduction prend effet, pour l'application du paragraphe 113 (1) (évaluation foncière inférieure);
41. prescrire le nombre d'unités de logement d'un ensemble d'habitation pour l'application de l'alinéa 113 (1) c);

42. prescribing rules the Registrar shall follow to calculate a reduction in maximum rent under subsection 113 (2);
43. prescribing the manner of requesting information from the rent registry;
44. prescribing rules the Registrar shall follow in limiting information provided under section 116;
45. prescribing the fees the Registrar may charge for furnishing information under section 116;
46. prescribing, for the purposes of section 132, fees for furnishing copies of forms, notices or documents;
47. defining any word or expression used in this Act that has not already been expressly defined in this Act;
48. prescribing anything that by this Act may be prescribed.

Idem

(2) For the purposes of paragraph 11 of subsection (1), the prescribed part of an allowance or the prescribed part of a justified amount shall be determined by reducing the allowance or justified amount by the amount that is necessary to ensure that the total of any new capital components and any increase in previously existing capital components allowed in the order or notice of carry forward and included in the maximum rent is equal to the greater of zero and the difference between,

- (a) the total of all capital expenditures allowed in the order or notice of carry forward and included in the maximum rent; and
- (b) 2 per cent of the previous maximum rent excluding all capital components.

Idem

(3) A regulation under paragraph 33 of subsection (1) may prescribe different dates for different classes of a residential complex and for residential complexes in different geographical areas.

Idem

(4) A regulation under paragraph 41 of subsection (1) may prescribe a different number of residential units in a residential complex for different municipalities.

Repeals

**136.—(1) The Residential Complexes Financing Costs Restraint Act, 1982, the Residential Complexes Financing Costs**

42. prescrire des règles que le registrateur doit suivre pour calculer la réduction du loyer maximal aux termes du paragraphe 113 (2);
43. prescrire la manière de présenter une demande de renseignements qui sont inscrits dans le registre des loyers;
44. prescrire des règles que le registrateur doit suivre pour limiter les renseignements fournis aux termes de l'article 116;
45. prescrire les droits que le registrateur peut demander pour fournir des renseignements aux termes de l'article 116;
46. prescrire, pour l'application de l'article 132, des droits pour fournir des copies de formules, d'avis ou de documents;
47. définir les mots ou expressions utilisés dans la présente loi qui n'y ont pas déjà été expressément définis;
48. prescrire ce qui peut être prescrit par la présente loi.

Idem

(2) Pour l'application de la disposition 11 du paragraphe (1), la partie prescrite d'un montant reconnu ou la partie prescrite d'un montant justifié est déterminée en réduisant le montant reconnu ou le montant justifié du montant qui est nécessaire pour que le total des nouveaux éléments d'immobilisations et de toute augmentation des éléments d'immobilisations existant antérieurement, reconnu dans l'arrêté, l'ordre, l'ordonnance ou l'avis de report et inclus dans le loyer maximal, soit égal à zéro ou, si elle est supérieure à zéro, à la différence entre les deux montants suivants :

- a) le total de toutes les dépenses en immobilisations reconnu dans l'arrêté, l'ordre, l'ordonnance ou l'avis de report et inclus dans le loyer maximal;
- b) 2 pour cent du loyer maximal précédent, à l'exclusion de tous les éléments d'immobilisations.

Idem

(3) Un règlement pris en application de la disposition 33 du paragraphe (1) peut prescrire des dates différentes pour des catégories différentes d'ensembles d'habitation et pour des ensembles d'habitation situés dans des zones géographiques différentes.

Idem

(4) Un règlement pris en application de la disposition 41 du paragraphe (1) peut prescrire un nombre différent d'unités de logement d'un ensemble d'habitation pour des municipalités différentes.

Abrogations

**136 (1) Les lois intitulées Residential Complexes Financing Costs Restraint Act, 1982, Residential Complexes Financing Costs**



*Restraint Amendment Act, 1983, the Residential Complexes Financing Costs Restraint Amendment Act, 1984 and section 4 of the Residential Tenancies Amendment Act, 1985 are repealed.*

Saving

(2) Despite the repeal of the *Residential Complexes Financing Costs Restraint Act, 1982*, that Act shall be deemed to be continued in force for the purpose of hearing and making orders in respect of applications made to the Commission under section 126 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, on or before the day preceding the day on which this section is proclaimed in force if those applications are not finally disposed of by the Commission on or before that day, and to appeals from any such orders.

Repeal

137.—(1) The *Residential Rent Regulation Act* is repealed.

Saving

(2) Despite the repeal of the *Residential Rent Regulation Act*, that Act, except subsections 102 (2) and (3), shall be deemed to be continued in force for the purpose only of continuing and finally disposing of the following matters:

1. An application made under that Act before the day this section is proclaimed in force.
2. A landlord's justification filed under section 62 of that Act in response to a tenant's application under section 60 of that Act or in response to a Minister's notice proposing to make an order under subsection 60 (4) of that Act if the tenant's application or the Minister's notice, as the case may be, was made before the day this section is proclaimed in force.
3. A Minister's motion under that Act, commenced by way of notice given under subsection 28 (1) of that Act.
4. An appeal or review of an order made under that Act.
5. A court proceeding to which the Minister or the Rent Review Hearings Board is a party if the proceeding was commenced before the day this section is proclaimed in force.
6. A court proceeding referred to in subsection 13 (5) of that Act.

Transitional

138.—(1) Sections 60, 61, 70 to 73, 75 to 110, 114, 115, 117, 118, 120 to 133, clauses 134 (1) (a), (b), (f) and (g), subsections 134 (2) and (3) and subsection 135 (2) of the

*Restraint Amendment Act, 1983 et Residential Complexes Financing Costs Restraint Amendment Act, 1984, et l'article 4 de la loi intitulée Residential Tenancies Amendment Act, 1985 sont abrogés.*

Disposition  
d'exception

(2) Malgré l'abrogation de la loi intitulée *Residential Complexes Financing Costs Restraint Act, 1982*, cette loi est réputée demeurer en vigueur afin que soient tenues des audiences et que soient rendues des ordonnances à l'égard des requêtes qui sont présentées à la Commission en vertu de l'article 126 de la loi intitulée *Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, le jour précédant celui où le présent article est proclamé en vigueur ou avant ce jour, si la Commission ne statue pas de façon définitive sur ces requêtes ce jour-là ou avant ce jour, et à l'égard des appels de ces ordonnances.

137 (1) La *Loi sur la réglementation des loyers d'habitation* est abrogée.

Abrogations

(2) Malgré l'abrogation de la *Loi sur la réglementation des loyers d'habitation*, cette loi, à l'exception des paragraphes 102 (2) et (3), est réputée demeurer en vigueur dans le but unique de poursuivre et de régler définitivement les questions suivantes :

Disposition  
d'exception

1. Une demande présentée en vertu de cette loi avant le jour où le présent article est proclamé en vigueur.
2. La justification déposée par un locateur aux termes de l'article 62 de cette loi en réponse à une demande présentée par un locataire en vertu de l'article 60 de cette loi, ou en réponse à un avis du ministre proposant de prendre un arrêté en vertu du paragraphe 60 (4) de cette loi, si, selon le cas, la demande du locataire a été présentée ou l'avis du ministre a été donné avant le jour où le présent article est proclamé en vigueur.
3. L'initiative qu'a prise le ministre en vertu de cette loi, entamée par un avis donné aux termes du paragraphe 28 (1) de cette loi.
4. Un appel ou une révision d'un arrêté pris, d'un ordre donné ou d'une ordonnance rendue en vertu de cette loi.
5. Une instance judiciaire à laquelle le ministre ou la Commission de révision des loyers est partie, si l'instance a été introduite avant le jour où le présent article est proclamé en vigueur.
6. Une instance judiciaire visée au paragraphe 13 (5) de cette loi.

138 (1) Les articles 60, 61, 70 à 73, 75 à 110, 114, 115, 117, 118 et 120 à 133, les alinéas 134 (1) (a), (b), (f) et (g), les paragraphes 134 (2) et (3) et 135 (2) de la loi intitulée

Disposition  
transitoire



*Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, as they were on the 31st day of December, 1986, shall be deemed to be continued in force for the purposes only of continuing and finally disposing of the following matters:

1. An application made under the *Residential Tenancies Act* before the 1st day of January, 1987.
2. An appeal of an order made under the *Residential Tenancies Act*.
3. A court proceeding commenced before the 1st day of January, 1987 to which the Residential Tenancy Commission is a party.
4. A court proceeding mentioned in subsection 84 (4) of the *Residential Tenancies Act* commenced before the 1st day of January, 1987.

Election

(2) An application under the *Residential Tenancies Act* made before the 1st day of January, 1987 may, at any time before the hearing of the application has commenced, at the written election of the applicant, be continued and finally disposed of as an application made under the corresponding provisions of the *Residential Rent Regulation Act*.

Residential  
Tenancy  
Commission

(3) For the purposes only of subsection (1), the Residential Tenancy Commission shall continue and has all the powers and jurisdiction conferred on it by the *Residential Tenancies Act*, and for that purpose all appointments of Commissioners and Appeal Commissioners and designations of Commissioners as members of the Board of Commissioners are confirmed and continued until the expiration of the term of appointment or a day to be named by proclamation of the Lieutenant Governor, whichever is earlier.

Single  
Appeal  
Commissioner

(4) Despite subsection 117 (7) of the *Residential Tenancies Act*, as it was on the 31st day of December, 1986, an appeal from an order made under subsection 129 (2) of that Act, as it was on that day, may be heard before a single Appeal Commissioner, who need not be a member of the Board of Commissioners.

Commence-  
ment

139. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

140. The short title of this Act is the *Rent Control Act, 1992*.

*Residential Tenancies Act*, qui constitue le chapitre 452 des Lois refondues de l'Ontario de 1980, tels qu'ils existaient au 31 décembre 1986, sont réputés demeurer en vigueur dans le but unique de poursuivre et de régler définitivement les questions suivantes :

1. Une requête présentée en vertu de la loi intitulée *Residential Tenancies Act* avant le 1<sup>er</sup> janvier 1987.
2. Un appel d'une ordonnance rendue en vertu de la loi intitulée *Residential Tenancies Act*.
3. Une instance judiciaire introduite avant le 1<sup>er</sup> janvier 1987, à laquelle la Commission de location résidentielle est partie.
4. Une instance judiciaire visée au paragraphe 84 (4) de la loi intitulée *Residential Tenancies Act*, introduite avant le 1<sup>er</sup> janvier 1987.

(2) Une requête prévue par la loi intitulée *Residential Tenancies Act* et présentée avant le 1<sup>er</sup> janvier 1987, peut, à tout moment avant le début de l'audition de la requête, être poursuivie et réglée définitivement comme une demande présentée en vertu des dispositions correspondantes de la *Loi sur la réglementation des loyers d'habitation*, si le requérant choisit, par écrit, de procéder ainsi.

Choix du  
requérant

(3) Pour l'application du paragraphe (1) seulement, la Commission de location résidentielle est maintenue et possède tous les pouvoirs et la compétence que lui confère la loi intitulée *Residential Tenancies Act*. À cette fin, toutes les nominations de commissaires et de commissaires aux appels, et toutes les désignations de commissaires à titre de membres du Conseil de la Commission sont confirmées et maintenues jusqu'à l'expiration du mandat ou jusqu'au jour que le lieutenant-gouverneur fixe par proclamation, selon le premier de ces événements.

Commission  
de location  
résidentielle

(4) Malgré le paragraphe 117 (7) de la loi intitulée *Residential Tenancies Act*, tel qu'il existait au 31 décembre 1986, un appel d'une ordonnance rendue aux termes du paragraphe 129 (2) de cette loi, tel qu'il existait à ce jour, peut être entendu par un seul commissaire aux appels, lequel n'est pas nécessairement membre du Conseil de la Commission.

Commissaire  
aux appels  
unique

139 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

140 Le titre abrégé de la présente loi est *Loi de 1992 sur le contrôle des loyers*.

Titre abrégé

*Approved  
1992 - 1993  
B. G. B.*



Fb)

CITY OF HAMILTON  
- INFORMATION -

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SEP 15 1992

CITY CLERKS

**DATE:** September 14, 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** L. King, P.Eng.  
Building Commissioner

**SUBJECT:** 74 CHARLTON AVENUE EAST - ILLEGAL DEMOLITION -  
December 24, 1991  
St. Elizabeth Home Society (92.2.4.2.1.A)

**BACKGROUND:**

On January 3, 1992, the Building Department reported to the Planning and Development Committee with respect to the demolition which occurred at 74 Charlton Avenue East. At that time, the Committee passed the following recommendation:-

1. That the Building and Law Departments be authorized to pursue all avenues of enforcement with respect to the unauthorized demolition of 74 Charlton Avenue East by its owner, St. Elizabeth Home Society (Hamilton, Ontario), or St. Elizabeth Housing Corporation, or their principals or directors.
2. That all enforcement procedures be co-ordinated with any action taken by the Niagara Escarpment Commission or the Ministry of the Environment.

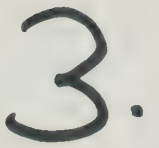
Since the report was filed with the Planning and Development Committee, this Department laid charges under the Building Code Act, and Ministry of Environment laid charges under the Niagara Escarpment Act. In that the Niagara Escarpment Act was obviously violated by the owners of this building, the Law and Building Departments in consultation with prosecution staff of the Ministry of Environment decided to withhold pursuing charges under the Building Code Act and allow the Ministry of the Environment to proceed with their charges.

When the outcome of the charges initiated by the Ministry have been finalized, the matter will be reported back to the Planning and Development Committee.

  
LCL/PCL/dm







c.c. Frank D'Amico - Alderman, Ward 8;  
Mr. & Mrs. W. R. Chontos, 51 Lynwood Road, Hamilton, Ontario. L9C 6M7.

VIEW THE NOTE

E01

From: BJANSSEN--COHAM

Date and time 09/04/92 12:18:25

To: TAGNELLO--COHAM

Subject: Walkway between Lynwood and Wendover - Fessenden Neighbourhood  
Further to our discussion, could you please arrange to have raised the authorization for a Public Meeting to discuss the potential closure of the above noted pedestrian walkway, as per the request from Alderman Ross. The purpose of the meeting, as authorized by the Planning and Development Committee, is to meet with local residents to discuss the potential closure of the walkway prior to a formal report to Committee. This is standard the process for walkway closures.

It would be appreciated if this request for authorization could be placed on the September 23rd P&D agenda. This will allow for an October public meeting. Give me a call if you need any addition information. Thanks.

cc: DROSS --COHAM

\* \* \* \* \*

Yours Truly,

Bill Janssen (x4147), Userid BJANSSEN

PF1 Alternate PFs PF2 File NOTE PF3 Keep PF4 Erase PF5 Forward Note

PF6 Reply PF7 Resend PFB Print PF9 Help PF10 Next PF11 Previous PF12 Return



4.

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**DATE:** September 11, 1992  
(P5-3-3-1)

**REPORT TO:** Ms. Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. G. Pavelka, P.Eng.  
Chief Administrative Officer

V. J. Abraham, M.C.I.P.  
Director of Local Planning

**SUBJECT:** Draft Mission Statement -  
Hamilton Harbour Commissioners

RECEIVED

SEP 14 1992

CITY CLERKS

**RECOMMENDATION:**

- A) That the Hamilton Harbour Commissioners be requested to revise the wording of the following draft Mission Statement:

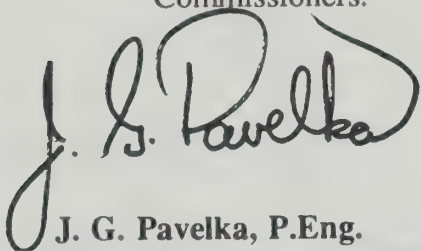
"The Hamilton Harbour Commissioners is a vital part of Canada's national transportation system. Our Mission is to provide leadership in the regulation, operation and development of the Port of Hamilton.

We are responsive to the needs of our customers and the public when regulating navigation and use of the Harbour; in the shipping of cargo; by developing commercial, industrial, and recreational uses; and by contributing to the economic well-being of Canada and our surrounding market area, while doing so on a financially self-supporting basis.

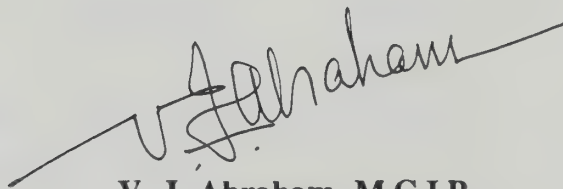
We provide reliable service of high quality. Our customers, employees, and all public and private organizations are treated with honesty, flexibility, and fairness. We work within the community and with other agencies to improve the Port of Hamilton and protect its natural environment."

to more clearly reflect their relationship with the City of Hamilton by adding "which relate primarily to bona fide shipping and navigation and subject to the City of Hamilton's regulations for those lands which do not relate primarily to shipping and navigation."

- B) That the City Clerk be directed to forward this report to the Hamilton Harbour Commissioners.



J. G. Pavelka, P.Eng.  
Chief Administrative Officer



V. J. Abraham, M.C.I.P.  
Director of Local Planning

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

The "Strategic Planning Task Force" of the Hamilton Harbour Commissioners has recently developed a draft "Mission Statement" which has been circulated to the City of Hamilton and other agencies for comment. The intent of the Mission Statement according to the Commissioners is "to establish the ground rules we have set for ourselves in conducting business". The draft Mission Statement reads as follows:

"The Hamilton Harbour Commissioners is a vital part of Canada's national transportation system. Our Mission is to provide leadership in the regulation, operation and development of the Port of Hamilton.

We are responsive to the needs of our customers and the public when regulating navigation and use of the Harbour; in the shipping of cargo; by developing commercial, industrial, and recreational uses; and by contributing to the economic well-being of Canada and our surrounding market area, while doing so on a financially self-supporting basis.

We provide reliable service of high quality. Our customers, employees, and all public and private organizations are treated with honesty, flexibility, and fairness. We work within the community and with other agencies to improve the Port of Hamilton and protect its natural environment."

A "Strategic Plan" is a formal document developed by organizations that acts as a guideline and establishes a framework or direction for the activities and management of an organization. The "Mission Statement" of an organization represents the underlying philosophy(ies) and paramount goal(s) of the organization.

**COMMENT:**

The draft Mission Statement of the Hamilton Harbour Commissioners successfully captures the important economic role of the Port of Hamilton and its link to the nation's marine transportation network. In addition, the Commissioners are to be commended for recognizing the need to improve the Port of Hamilton and to protect its natural environment in the draft Mission Statement.

However, the draft Mission Statement reiterates the Commissioners on-going lack of recognition of the City of Hamilton's jurisdiction to deal with lands in the Harbour area that are not used for *bona fide* shipping and navigation purposes. Further, the draft Mission Statement fails to acknowledge the jurisdictional authority of the City to regulate land use planning in the Harbour area.

The phrase in the draft Mission Statement that is of concern is contained in the second paragraph and reads as follows: "by developing commercial, industrial and recreational uses;". The City's Law Department in its review of the draft Mission Statement has commented that this phrase may be misleading to individuals, businesses, or other organizations and agencies not aware of the manner in which the Courts have delineated the jurisdiction and authority of the Hamilton Harbour Commissioners, which is shipping and navigation.

Accordingly, the aforementioned phrase should be reworded to reflect the direction of the Courts on this matter with greater clarity.





**CITY OF HAMILTON**  
**- RECOMMENDATION -**

5.  
**RECEIVED**

SEP 16 1992

CITY CLERKS

**DATE:** 1992 September 14  
(P5-4-45)

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Residential Enclaves - Process for the Neighbourhood  
Planning Study (Land Use Review)

**RECOMMENDATION:**

That Stage 1 of the Land Use Review for the Residential Enclaves be undertaken by the Planning and Development Department as part of the 1993 Work Programme, to determine the feasibility of redesignating and rezoning the enclaves to Residential.

**J. D. Thoms, M.C.I.P.**  
Commissioner  
Planning and Development Department

  
**V. J. Abraham, M.C.I.P.**  
Director of Local Planning

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

- City Council, at their meeting of June 30, 1992, directed Planning Department staff to report back to the Planning and Development Committee on the process involved to redesignate and rezone the residential enclave lands from industrial to residential. This would involve an overall land use review, including Neighbourhood Plan analysis, amendments to the Hamilton Official Plan, and rezoning. At the same meeting, Council approved the retention of the industrial designation and zoning for all enclaves, and the abandonment of the acquisition program for all except the Alpha East enclave.

- The residential enclaves are areas of mainly low density housing, surrounded by industrial uses, located in the north end of the City. Due to the land use conflicts, the long term intent has been to eventually convert these lands to industrial use. This intent has been recognized in both the Official Plan designation and zoning.
- The Residential Enclaves Study report, dated April, 1992, provides a complete outline of the history of the enclaves, as related to both land use and property acquisition options and recommendations.
- The recent review of the acquisition program, the recommendations of which were approved by City Council on June 30, 1992, concluded that the industrial designation and zoning for the enclaves should be retained.
- City Council also directed: "That staff of the Planning Department report back to the Planning and Development Committee on the process involved to rezone the enclave lands to residential."
- As a result, staff have developed a proposed study process which could be used to carry out the land use review, which would be required prior to consideration of redesignating and rezoning the enclaves. This process is attached.

#### **COMMENTS:**

The Planning and Development Department has supported the retention of the industrial designation and zoning for the enclave lands, due to a number of planning concerns, which include:

- land use conflicts related to the existing adjacent industry and residences;
- potential health risks associated with the close proximity of residential and heavy industrial uses;
- concerns of existing industry, who have always had industrial zoning on their properties and adjacent lands; and,
- proposed Ministry of Environment guidelines which require separation of residential uses from heavy industrial.

For these reasons, it is recommended that a two stage process be initiated for this study, which would allow for a preliminary review and report to Council, prior to detailed analysis being undertaken. The study would involve:

- **Stage 1:** Identification of stakeholders, including MOE and industries, and their concerns; review of implications of redesignation and rezoning; identification of options; public meeting regarding options; report to Planning and Development Committee regarding review of options, to determine whether to proceed with Stage 2.
- **Stage 2:** Establishment of citizen stakeholder committee(s); meetings of committee(s) to review relevant land use issues; development of land use options at neighbourhood plan level; public meeting(s) on neighbourhood plan options; recommendation of preferred options and Official



Plan Amendments to Planning and Development Committee; implementation of related Rezoning.

***CONCLUSIONS:***

It is recommended that Stage 1 of the Residential Enclaves - Land Use Review, as outlined in the attached Proposed Study Process, be carried out by staff of the Planning and Development Department. Stage 2 of the study will be undertaken later, if indicated by the outcome of Stage 1.

V.G.  
ENCLZONE.REP

## RESIDENTIAL ENCLAVES - LAND USE REVIEW

### PROPOSED STUDY PROCESS

#### STAGE 1

4 Months

- Identify **Background Information** regarding Enclaves, including planning history, land use, policy controls, results from survey of residents, property values, sewer and other services; noise/air pollution, etc.
- **Identify Stakeholders** who have major involvement in redesignation/rezoning, including municipal departments, Provincial Ministries, industries, Chamber of Commerce, etc.
- Prepare preliminary report, outlining study approach, extent of land use options, and potential implications of rezoning.
- Circulate preliminary report for **comments from stakeholders**; revise as necessary.
- Hold **Public Meeting** to present comments on study approach and options to public.
- Invite and Review Submissions.
- **Report to Planning Committee** regarding conclusions from Stage 1, regarding whether or not land use review merits further consideration; whether to proceed with Stage 2.

#### STAGE 2

8 Months

- Refine Study Design, ie. number and extent of citizen stakeholder committees, whether:
  - one overall committee for all enclaves; or,
  - one committee for each large enclave, and combined one for smaller enclaves.
- Establish **Citizen Stakeholder Committee(s)**.
- Hold **meetings** of Citizen Stakeholder Committee(s), to receive and discuss information from staff regarding issues, such as planning history, land use, policy controls, results from survey of residents, property values, sewers, noise/air pollution, etc. Up to three such meetings are anticipated, with each of one to three committees, to **identify implications for land use options**.
- Develop land use options at neighbourhood plan level for each enclave area, incorporating comments from citizen committee(s).
- Circulate **Neighbourhood Plan options** to municipal departments and ministries for comment.
- Hold **Public Meeting(s)** on Neighbourhood Plan options.
- Invite and Review Submissions.
- Select and refine **preferred Neighbourhood Plan option** for each enclave; prepare associated **Official Plan Amendments and planning policies**.
- **Report to Planning and Development Committee** on final recommendations regarding Neighbourhood Plans and Official Plan Amendments.
- Implement land use designations by carrying out **associated Rezoning**s for affected lands.

CITY OF HAMILTON

- INFORMATION -

6a)

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**DATE:** 1992 September 14  
(P5-4-3-9F)

SEP 16 1992

CITY CLERKS

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Advisory Committee on GO Transit

**PURPOSE:**

This report outlines the process by which the Advisory Committee on GO Transit was recently established, its terms of reference, approach and anticipated time frame for reporting.

J. D. Thoms, M.C.I.P.  
Commissioner  
Planning and Development Department

  
V. J. Abraham, M.C.I.P.  
Director of Local Planning

**BACKGROUND:**

Plans for the restoration and renovation of the Hunter Street GO Transit Centre, to serve as an intermodal train/bus terminal, are being finalized by GO Transit. The November, 1989 Environmental Assessment Report was approved by the Minister of the Environment in April, 1992, subject to a number of conditions. A Preliminary Design Report for the Hamilton GO Centre was prepared, dated January, 1991 outlining plans for the restoration and renovation of the building and surrounding transit facilities. Detailed design drawings are now being prepared, which will enable the project to be taken to tender.



GO Transit's schedule for the project includes the following targets:

- Submission of working drawings on the Hamilton GO Centre to the City, through the Planning and Development Committee, for municipal comments, from mid-October 1992 through approximately January or February, 1993;
- Finalization of the detailed design for the GO Centre, and beginning of tendering, by February or March, 1993;
- Completion of the construction/renovation by approximately October, 1994;
- Construction of the train storage yard by late 1994 or early 1995.

GO Transit has indicated that there is a minimal amount of time available within their schedules for further revisions to the design of the GO Centre.

As public participation has been an important component of the project during all stages, it was anticipated that there would be additional opportunities for public review and input following the preparation of the 1991 Preliminary Design report. However, it has been learned in approximately May of this year that the preliminary design is in fact the final design, and will form the basis for tendering early in 1993.

Concern was expressed about this situation by the Central Area Plan Implementation Committee (CAPIC) and the Urban Design Committee, both of which are sub-committees of the Planning and Development Committee. They had concerns about the lack of further opportunities for public input at this point, as well as specific concerns about issues such as pedestrian access and personal safety; parking and vehicular access, etc., which they feel are as yet unresolved.

A report on the implementation of the Preliminary Design was prepared by the Urban Design Committee, and presented at the Planning and Development Committee meeting of July 22, 1992. As a result, the Committee directed that the Planning Department call a meeting of all interested parties to be held in early September, 1992 on the matter. They also asked that related correspondence from the Urban Design Committee be forwarded to the Chief Administrative Officer.

Subsequently, two meetings were held with GO Transit:

- On July 29, 1992, municipal staff discussed the project with GO Transit and their consultants. It was agreed that a meeting would be held with interested citizens; that a stakeholders task force would be established; and that a public meeting would be arranged.
- On August 4, 1992, citizen stakeholders identified by staff met with GO Transit, and the establishment of a citizen-based advisory committee was endorsed.

The Advisory Committee on GO Transit was thereafter established, and met for the first time on August 24, 1992. It is a sub-committee of CAPIC, and CAPIC members serve as co-ordinators. The purpose of the Committee is to review the plans for the GO Centre, and especially its interface with the surrounding area. The Committee will report back to the Planning and Development Committee, through CAPIC. The Advisory Committee review process is not intended to unduly delay GO Transit's schedule for the project, and the Committee anticipates providing recommendations to City Council on its review by the end of October, 1992.

The Advisory Committee consists of representatives of various groups, including CAPIC; Urban Design Committee; LACAC; Corktown, Durand, and Stinson neighbourhood associations; the Downtown BIA; and other interested groups. Staff of the Planning Department serve as co-ordinators, with staff of various departments as resource people. The Terms of Reference, Membership List and Time Frame for Meetings and Reporting are attached. Further meetings of the Committee were held on September 9 and 17, 1992, to identify specific issues and concerns, and possible means of addressing these concerns.

**A public meeting will be held on the GO Transit project on Wednesday, September 23, 1992 at 7:00 p.m. in the City Council Chambers.** This will be an opportunity for the general public to obtain information on plans for the station and the status of the project; ask questions of GO Transit and Parker Consultants, who will be present and provide comments; and hear about concerns and possible solution regarding the station's interface which have been identified to date by the advisory committee.

The layover yard for the overnight storage of GO trains is an associated matter, which will also be addressed by the Advisory Committee. The 1989 Environmental Assessment Report identified the Victoria Avenue yard, located between Victoria Avenue and Wentworth Street, for this purpose. This is being studied by GO Transit and their consultant, Giffels, as a project separate from the GO Centre. It is expected that GO Transit will hold a public meeting later on this matter, once more detailed plans and impact assessment are available.

The conditions of approval of the Environmental Assessment for the Hamilton GO Transit project, issued by the Minister of the Environment in April, 1992, address particularly the train storage yard. GO Transit must:

- Consult with local ratepayers and the municipality for public input on the design and construction of the proposed Victoria Avenue storage yard;
- Provide a report on mitigation measures for this yard, for review and acceptance by the Ministry of the Environment; and,
- Construct and operate the storage yard in accordance with the accepted mitigation measures.

V.G.  
GOTRANST.REP



ADVISORY COMMITTEE ON THE  
HAMILTON GO TRANSIT CENTRE

REVISED TERMS OF REFERENCE  
AS OF AUGUST 24, 1992

PURPOSE :

The purpose of the Advisory Committee is to facilitate the review of plans for the Hamilton GO Transit Centre, including especially the station building's interface with the surrounding area; and the proposed train layover area to the east.

SCOPE :

The committee will address the detailed design of the station building and the associated bus transit terminal, including both interior and exterior areas; with consideration to such issues as (but not restricted to) pedestrian access, pedestrian/vehicle interface, safety from assault, location and impact of parking areas, urban design issues and other such issues as may be identified. The layover yards proposed to the east of the station are also to be reviewed. There is no intent to re-evaluate major decisions made and approvals given with regard to this project, such as the location of the GO station and the restoration of the station.

MEMBERSHIP :

The Committee will consist of representatives of various planning advisory committees which deal with matters related to the GO Station, such as CAPIC, Urban Design Committee, LACAC, Durand Plan Implementation; as well as representatives of neighbourhood associations in the central area, such as Durand, Stinson, St. Clair, Corktown and Beasley; downtown B.I.A.s; and a downtown Alderman. Staff members from various departments (including Planning; Transportation/Environmental; and Traffic) will also be requested to act as resource people for the Committee, as required.

APPROACH :

The Committee will : meet to identify issues of concern; determine how to review these issues; request input and comments from each of the component groups which make up its membership; plan and hold one or more public meetings, to enable the provision of input by the Committee and the general public; review and compile public input obtained; prepare consolidated recommendations, including specific, constructive comments, where possible; report, through CAPIC, to the Planning and Development Committee and City Council, on its comments concerning the GO Transit Station. This is all to be done in a timely manner, without causing undue delay to the project, and recognizing the extensive design work already completed and underway, and the approvals obtained for various aspects of the project. The final reporting of the Committee's recommendations concerning the GO Station is anticipated to be provided to City Council by approximately the end of October, 1992. Plans for the layover yard will also be reviewed, as soon as these become available.



August 24, 1992

**ADVISORY COMMITTEE ON  
HAMILTON GO TRANSIT CENTRE**

**MEMBERSHIP LIST**

**MEMBERS:**

Gil Simmons, Chairperson	CAPIC; Urban Design Committee
Russell Elman	CAPIC (Ex Officio)
Marianne Mokrycke	Urban Design Committee
Peter Hill	Urban Design; Durand Implementation
Robert Brough	LACAC
Helene Fallen	Durand Neighbourhood
Brenda Mitchell	Stinson Neighbourhood
Diane Carpenter	Downtown BIA
David Beland	St. Clair Neighbourhood
Francois Roesch	Corktown Neighbourhood
Hal Costie	Corktown Neighbourhood
Jim Drake	Beasley Neighbourhood
Alderman Wm. McCulloch	Alderman, Ward 2

STAFF CIRCULATION:

Victor Abraham  
Director of Local Planning, Planning Dept.

Vladimir Matus  
Manager, Urban Design Section, Planning Dept.

John Sakala  
Co-ordinator of Urban Design Committee, Planning Dept.

Bill Janssen  
Neighbourhoods and Policy, Planning Dept.

Mary Lou Tanner  
CAPIC Co-Ordinator, Planning Dept.

Vanessa Grupe  
Durand Implementation Co-ordinator, Planning Dept.

Nina Chapple  
LACAC Co-Ordinator, Planning Dept.

Bill O'Brien  
HSR, Transportation/Environmental Services

Ted Gill  
Senior Director of Roads, Engineering Dept.

Murray Main  
Director of Traffic Services, Traffic Dept.

Peter Baker  
General Manager, Parking Authority

VG/dkp  
GOTRANSIT

August 24, 1992

ADVISORY COMMITTEE ON THE  
HAMILTON GO TRANSIT CENTRE

REVISED TIME FRAME  
FOR MEETINGS AND REPORTING

MEETING	TOPIC	DATES PROPOSED
Advisory Committee Meeting #1	Introduction & Assignments	Mon. Aug. 24
Advisory Committee Meeting #2	Review of Issues in Detail	Wed. Sept. 9
Advisory Committee Meeting #3	Review Issues, Develop. Recomm.	Thurs. Sept. 17
Public Meeting	Stakeholder Groups / General Public	Wed. Sept. 23 p.m.
Advisory Committee Meeting #3	Review of Input & Consolidation	Mon. Sept. 28
Advisory Committee Meeting #4	Further Review	Mon. Oct. 5 Or Wed. Oct. 7
Report to CAPIC Meeting		Week of Oct. 5 ?
Report to Urban Design Committee		Week of Oct. 12 ?
Planning & Develop. Dept. Report		Tues Oct. 13
Planning & Develop. Committee Report		Wed. Oct. 21
City Council		Tues. Oct. 27





6b)

URBAN DESIGN COMMITTEE

a Sub-Committee of the Planning and Development Committee  
Regional Municipality of Hamilton Wentworth

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RECEIVED

SEP 11 1992

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September 11, 1992

CITY CLERKS

Memo to: Councillor Don Drury,  
Chairman, Planning and Development Committee

and all members of the Committee

From: Peter L. Hill  
Chairman, Urban Design Committee

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**Re: Issues relating to the GO Centre**

After the decisions taken by the Planning and Development Committee earlier this summer, CAPIC has struck a Task Force to pull together the community's concerns and hopes for the new GO Centre. The Task Force is comprised of a broad range of interested parties and will report to you late in September or in early October, as will my Committee.

Your Urban Design Committee has continued to review its thinking since my recent presentation to you and will be providing additional perspectives for consideration. As you know, the GO Centre constructors have provided us with a very narrow, and closing, window of opportunity to make suggestions which will require modifications to their plans, and it has now become clearly apparent that it is timely to consider what happens once the reports are all received by the Planning and Development Committee.

May I recommend the following:

1. That P & D approve, at its earliest opportunity, to engage a consultant to prepare a final case, with design plans, for its review and for presentation to Council.

Because of the constraints of both time and the availability of human resources, it is important that this decision be taken early so that staff can prepare the terms of reference in time.

...2/

2. **That the prime focus of current (first) discussion be on those things which bear directly on the plans which are now being drawn for the GO Centre itself.**

Such issues would include, inter alia: the canopy over the bus terminal, the interface with pedestrians around the perimeter of the site, etc. There are many issues relating to the GO Centre which do not require **urgent** decisions; these can be handled after the design-critical ones. The consultant, however, would have a mandate covering the whole process.

I would also make a recommendation on an additional issue which does not relate to the GO Centre directly and which can be handled separately - the disposition of the publicly owned property on which the Health Unit now stands.

It is our understanding that this property will soon be conveyed to the Hamilton Parking Authority for demolition and building of a parking ramp.

On this matter I wish to recommend to the Planning and Development Committee:

**that it consider recommending to Council that this move be delayed until the impact area of the GO Centre is fully and finally planned.**

It may be that, after due deliberation, a different use would be thought preferable and no action should be taken until the situation is reviewed.

This matter is also of some urgency because the transfer is planned for an early date. Should the delay not be approved, serious and deleterious results might accrue.

cc V. Abraham



7.

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 15 1992

**DATE:** 1992 September 15

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Charlene J. Coutts, Secretary  
Local Architectural Conservation  
Advisory Committee

CITY CLERKS

**SUBJECT: ONTARIO HERITAGE ACT REVIEW - COMMENTS  
ON THE DRAFT REPORT OF THE MINISTER'S  
ADVISORY COMMITTEE ON NEW HERITAGE  
LEGISLATION**

**RECOMMENDATION:**

- a) That the general proposals put forward by the Minister's Advisory Committee on New Heritage Legislation be strongly supported, particularly in respect to the strengthening and streamlining of the designation process for heritage properties under the Ontario Heritage Act;
- b) That the two new proposals for the designation process, specifically the priority rating (suggested wording instead of grading requirement) for heritage properties and the possibility of compensation to be paid to the owner of a designated property under special conditions not be supported;
- c) That the proposed recommendations respecting the expansion of the legislative mandate to include movable heritage, intangible heritage, and heritage facilities be referred to the appropriate municipal Departments and Committees, such as the Hamilton Historical Board, the Department of Culture and Recreation, the Hamilton Library, the Hamilton Art Gallery, etc. for comment;
- d) That the additional incentives for heritage conservation found in the Ministry's previous review in 1990 entitled "Proposals for Legislation", be supported in the present proposal;

- e) That the Minister's Advisory Committee on New Heritage Legislation be advised of LACAC's request to have an opportunity to comment further on the policy before it is submitted for final approval; and, when available, on the draft Regulations which will be crucial to the successful implementation of the new heritage legislation.
- f) That a letter be sent to the Minister's Advisory Committee on New Heritage Legislation advising them of the aforementioned recommendations with a copy being sent to the Association of Municipalities of Ontario.



***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

The Minister's Advisory Committee on New Heritage Legislation was formed in 1991 to bring together the many different interest groups affected by heritage legislation to review and provide feedback on proposals regarding the scope of the proposed new Heritage Legislation, provincial and municipal roles, and the basic approaches to be used in conserving different types of heritage.

On 1992 June 17, the Advisory Committee prepared a Working Paper entitled a "Draft Report of the Minister's Advisory Committee on New Heritage Legislation", attached hereto and marked as Appendix "A". The Local Architectural Conservation Advisory Committee established a Sub-Committee to review this Working Paper. Staff of the Local Planning Branch, Heritage Planning, prepared a summary and comments on this Working Paper, attached hereto and marked as Appendix "B".

After reviewing these documents in length, LACAC at its meeting held 1992 September 14 made the aforementioned recommendations.

Attached

c.c. Victor Abraham, Director, Local Planning Department  
Nina Chapple, Planning Department

**WORKING PAPER**

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**DRAFT REPORT OF THE  
MINISTER'S ADVISORY COMMITTEE  
ON NEW HERITAGE LEGISLATION**

**JUNE 17, 1992**



# CONTENTS

## Part 1      Background

### A. Introduction

### B. Heritage and Ontario's Future

### C. The Role for Heritage Legislation

## Part 2      Detailed Recommendations for a New Ontario Heritage Act

**PART 1**  
**BACKGROUND**

## A. INTRODUCTION

In 1987 the Government of Ontario launched the Ontario Heritage Policy Review (OHPR) to create an overall policy framework for heritage programs and to update the Ontario Heritage Act.

The Ministry of Culture and Communications received comments at 26 public meetings, in written submissions (250 were received from all types of interests affected by heritage policy) and in meetings with 35 provincial umbrella organizations. In May 1990 the Minister of Culture and Communications released the final reports of the Review and announced that the government had adopted a heritage policy statement.

At the same time the Minister released a package of preliminary proposals for new heritage legislation. In June 1990 fifty-four umbrella organizations were invited to attend a symposium to critique the proposals and to follow up with written submissions. As a result of this input the proposals for new heritage legislation were completely revised.

In May 1991 the Minister of Culture and Communications, announced the formation of a Minister's Advisory Committee on New Heritage Legislation. The Committee's mandate is to:

- i) review and provide feedback on proposals regarding the purpose and scope of the legislation, provincial and municipal roles, and the basic approaches to be used in conserving heritage of different types; and
- ii) provide detailed advice and recommendations on the specific provisions in the legislation.

The committee brings together a wide spectrum of interests affected by heritage legislation - including heritage activists, ethnocultural groups, municipalities, labour, and the development industry. The members of the committee are:

Architectural Conservancy of Ontario	- Alec Keefer
Association of Municipalities of Ontario	- Kay Manderville
Canadian Ethnocultural Council (Canadian Polish Congress)	- Marek Malicki
Canadian Ethnocultural Council (German Canadian Congress)	- Elke Fromhold-Treu



Canadian Ethnocultural Council (Third World Players)	- Lloyd Stanford
Canadian Ethnocultural Council (Ukrainian Canadian Congress)	- Chrysta Chudczak
Community Heritage Ontario	- John Harrison
	- Cliff Bennett (alternate)
Natural Heritage League	- Lynn MacMillan
	- John Lounds (alternate)
	- Jane Roszell (alternate)
	- Rick Morgan
	- Gord Gallant (alternate)
Ontario Archaeological Society	- Lise Ferguson
	- Christine Caroppo (alternate)
Ontario Association of Archivists	- Lutzen Riedstra
	- John Hardy (alternate)
Ontario Federation of Labour	- David Sobel
Ontario Genealogical Society	- Alison Lobb
	- Louise Hope (alternate)
Ontario Historical Society	- Dorothy Duncan
	- Russell Cooper (alternate)
Ontario Museum Association	- Bill Barber
	- Margaret May (alternate)
Regroupement des organismes du patrimoine franco-ontarien	- Soeur Huguette Parent
	- Gerard Levesque (alternate)
Urban Development Institute	- Phil Goldsmith
	- Sidney Paul (alternate)

First Nations are not represented on the Minister's Advisory Committee. Instead there are separate discussions underway between the Chiefs of Ontario and the Ministry of Culture and Communications. These discussions reflect a government-to-government relationship between the Province of Ontario and the First Nations. Their purpose is to ensure that Ontario's legislative process respects the rights of aboriginal peoples.

Since last July, the Minister's Advisory Committee has reviewed the legislative proposals in detail. This draft report is the result of those discussions. Before finalizing its recommendations to the Minister of Culture and Communications later this summer, the Committee wishes to circulate the report to all interested groups for comment.

## B. HERITAGE AND ONTARIO'S FUTURE

Since 1975 when the Ontario Heritage Act was passed, our understanding of heritage has evolved substantially. We used to think of heritage as a collection of interesting buildings and objects. Now we view heritage as the total environment inherited from the past, contributed to in the present and handed on to the future.

Our heritage includes our tangible legacy of keepsakes, artifacts, documents, burial places, architecture, archaeological sites, landscapes and natural resources. It also includes our intangible inheritance of traditions, values, knowledge and beliefs. We now see our heritage as the living context from which we draw meaning, as the sum of all the experience of our society and as the reference point that guides us into the future.

Our heritage provides the sense of roots which underpins our identity as a society. From our heritage we learn who we are, what we have accomplished, and how we have prevailed in prosperity and in adversity. It provides familiar touchstones that help us feel at home and keep our perspective in changing times. It gives a sense of stability, inspiration and confidence in the future.

Heritage conservation has never been more crucial than it is today. Canada faces unprecedented challenges posed by a world economy, a technological revolution, an endangered environment and a constitutional crisis. To channel and direct the forces of change, and answer the basic questions in our national life, we must look to our past experiences.

In Ontario we do not have one uniform past, but rather a mosaic of historical experiences. All the various groups in our society need a sense of who they are, if they are to participate in Ontario life on an equal basis. Heritage conservation empowers people to do so by reinforcing our identity as individuals and communities.

Through heritage conservation, then, we achieve the delicate balance that has been the key to our progress. Our heritage is both a tribute to our diversity and ability to adapt, and a symbol of the things that unite us and the values that remain unchanged.

We should also recall the positive economic impact of heritage conservation. Heritage events and attractions lure tourists and their dollars. The building renovation industry - which includes historical restorations - is expected to far outpace new construction by the end of the century. And our cultural industries - such as publishing and broadcasting - draw creative inspiration from heritage themes. These are just three examples of how heritage conservation can contribute to the rebuilding of the economy.

It is with these perspectives that the Minister's Advisory Committee has tackled the job of reforming Ontario's heritage legislation.



## C THE ROLE FOR HERITAGE LEGISLATION

The current legislation, *the Ontario Heritage Act*, is seriously outdated. It deals only with buildings and archaeological sites, and concentrates more on narrowly protecting heritage resources than on conserving our heritage for the use and enjoyment of all Ontarians. The Act also fails to recognize and respect the distinct heritages in Ontario's diverse society.

Government powers to conserve heritage under the present legislation are inadequate - leading to steady, irreparable losses. There are no province-wide standards to guide the municipal role, so different communities have very different ground rules for heritage conservation.

The Advisory Committee has reached a broad consensus on key objectives for a new Heritage Act. The new legislation should:

- promote respect for, and responsible stewardship of, the heritage of the diverse peoples and communities that make up Ontario;
- clearly establish the responsibility of governments to take steps to identify and conserve Ontario's heritage; and
- create effective, efficient and fair tools and processes for identifying and conserving heritage resources.

With a new act in place, all Ontario communities including francophones, aboriginal peoples and ethnocultural groups will be in a better position to develop their own identities and cultures within the context of Ontario. Governments, organizations and individuals will be encouraged and equipped to conserve heritage resources, and to develop appropriate tools to meet those ends. Finally, citizens across Ontario will have more opportunities to participate in setting policies and making decisions about their heritage.



## **PART 2**

# **DETAILED RECOMMENDATIONS FOR A NEW ONTARIO HERITAGE ACT**

The specific recommendations for the legislation are organized under the following headings:

Preamble

Purpose Statement

Definitions

Application to Provincial Government

Provincial Powers - General

Municipal Powers - General

- general powers of municipalities
- municipal heritage advisory committees

Heritage Resource Management

- identification powers
- provincial inventory and register
- heritage impact assessment
- recognition of heritage places
- designation of heritage places
- recognition of movable heritage property
- designation of movable heritage property
- expropriation
- automatic protection
- ownership of finds
- archaeological licensing
- heritage easements
- inspection and emergency powers

Heritage Custodial and Other Facilities

Ontario Heritage Board

Emergency Powers

Enforcement

Relation to Other Legislation

**Note:** The focus of this report is what the proposed statute itself will say. Many of the recommendations recognize the need for the development of regulations under the statute on some very specific issues.

The Committee recommends that the appropriate regulations be developed in consultation with interests affected as soon as possible, while the bill to introduce the legislation is being drafted.

## PREAMBLE

The new act should contain a preamble, such as those found in the Ontario Human Rights Code and the French Language Services Act. A preamble provides an opportunity to highlight certain basic principles and assumptions behind the legislation and helps to communicate its ultimate goals.

### 1.1 Ontario's identity and character as a society are rooted in a rich and diverse heritage.

This heritage is everything we value from the past, whether of natural or of human origin. It is the living context from which we draw sustenance, coherence and meaning.

Our heritage is at the same time the values and institutions we all share as Ontarians, and the distinct histories, expressions and aspirations of our many peoples and communities.

This inheritance is not ours to squander, nor to preserve passively. As the source of our inspiration and confidence, we must draw upon it and contribute to it.

As recognized in the World Heritage Convention of 1972, Ontario and Canada share a global commitment to conserve and develop this heritage in ways that meet our needs for today and maintain our prospects for tomorrow.



## PURPOSE STATEMENT

In order that the legislation be more readily understood, applied and interpreted, there should be a clear statement of its purposes. This statement should establish the important themes and messages running through the detailed provisions of the act.

### 2.1 The purpose of this legislation is,

- to recognize the importance of the natural and cultural heritage of the province to the identity and well-being of all Ontarians;
- to encourage and promote the conservation and stewardship of heritage by Ontario's peoples and communities;
- to foster understanding of the value of heritage through education; and
- to enable and assist both public institutions and private organizations and individuals to identify, protect and interpret heritage resources and to use them in sustainable ways.

## DEFINITIONS

In addition to listing operational or technical terms, the definition section of the act provides an opportunity to explain key concepts used throughout the legislation.

### 3.1 The legislation should incorporate definitions of key concepts and terms, including:

heritage	means the sum total of our inheritance, both natural and human; heritage is manifested in physical and intangible heritage resources including structures, landscapes, natural areas, archaeological and paleontological sites, cemeteries and other burial places; documents, artifacts, traditions and values; skills and stories
conservation	<p>means any activity undertaken to protect, safeguard or enhance heritage and includes,</p> <ul style="list-style-type: none"><li>• identifying heritage resources by finding, selecting and documenting heritage elements and features</li><li>• protecting heritage resources by physical and legal means;</li><li>• interpreting heritage resources by revealing their meaning and value; and</li><li>• using heritage resources in responsible and sustainable ways</li></ul>
community	means a group of individuals bound together by common heritage or purpose, whether established through family connection, historical experience, ethnocultural origin, occupational or religious affiliation, or regional or geographic grouping

**Note:** In these recommendations "Minister" means the Minister of Culture and Communications

## APPLICATION TO PROVINCIAL GOVERNMENT

### 4.1 The legislation should be binding on the Crown.

## PROVINCIAL POWERS - GENERAL

The Provincial Government holds fundamental responsibility for heritage conservation in Ontario and has a dual role in reinforcing identity: the Province must seek to validate and strengthen the diverse identities of Ontario's many communities, while nurturing the identity and character of Ontario as a whole.

Heritage conservation concerns now pervade provincial government programs. According to the Ontario Heritage Policy Review, over 100 programs in 15 ministries and 25 pieces of legislation have some relation to heritage resources and their conservation. Provincial responsibility for heritage conservation must be shared across the government. All ministries and agencies have a role to play in reinforcing community identities and in conserving heritage resources of provincial interest. All should have clear powers within their individual mandates to establish heritage policies and programs. In addition, the legislation should require that they pay attention to the conservation of heritage resources in their planning and other activities.

To promote consistency and coordination among provincial ministries and agencies with respect to heritage concerns and to provide adequate direction and guidance to municipalities and non-government organizations, the Ministry of Culture and Communications should be given lead responsibility for administering the new legislation. MCC should also take the lead in defining and promoting the provincial interest in heritage conservation.

Cross-government policies and other policies applying to more than one ministry (eg. policies with respect to Crown-owned property) should be issued by Cabinet. Ministries and agencies would then be accountable to Cabinet for their actions. MCC should be responsible for developing such policies through an interministry process and recommending them to Cabinet. MCC should also be given the task of monitoring the effectiveness of such policies.

5.1 The Minister, in concert with other ministers of the Crown, will be required to establish provincial heritage conservation policies, standards and guidelines. The purpose of such policies, standards and guidelines will be to direct all ministries, their agencies, boards and commissions, and municipalities in carrying out their individual mandates. The Minister will be required to monitor the effectiveness of such measures.



5.2 All ministers will be required to include in the policies and programs of their ministries provision for the conservation of heritage which may be affected by their policies and programs.

5.3 The Minister is authorized to:

- establish policies, plans and programs for the conservation of the heritage of the province, and to commit resources for those purposes;
- enter into joint programs with the federal government and international authorities for the conservation of heritage resources of national and international interest; and
- enter into commercial joint ventures, consistent with the purposes of this legislation, with private corporations and individuals.

## MUNICIPAL POWERS - GENERAL

### General Powers of Municipalities

While the Province bears ultimate responsibility for heritage conservation in Ontario, the importance of heritage conservation to the identity of the diverse communities in Ontario means that local governments also have an important role to play.

The responsibilities of municipal governments (and other local authorities such as conservation authorities and school boards) for heritage conservation should be integral to their responsibilities for planning and decision-making on social, economic, ecological, cultural and other community development issues. The trend internationally is towards the integration of heritage conservation with planning processes addressing these areas. In Ontario some municipalities have moved in this direction through inclusion of heritage policies and objectives in their official plans.

In giving attention to heritage conservation concerns municipalities face a number of obstacles: ineffective legal tools, inexperience, lack of awareness and expertise, and constrained budgets. Ontario's 839 municipalities vary significantly in population, responsibilities, administrative resources and their ability to raise revenue locally. (Almost 75% of all lower-tier municipalities have a population of less than 5,000, while only 3% have populations of more than 100,000.)

Municipalities will be in position to undertake a more comprehensive mandate for heritage conservation only with provincial support and encouragement and within a policy context provided by the Province. The new statute also should allow for flexibility in the assigning of responsibilities between upper and lower tier municipalities.

- 6.1 Every municipal council will be required to establish policies for the conservation of the heritage of the municipality and to include these, as appropriate, in the official plan and other planning documents of the municipality.
- 6.2 Every municipal council and local board is authorized to adopt plans, measures and programs for the conservation of the heritage of the municipality, including measures for conserving and managing heritage property owned by the municipality or board.

**6.3 Municipal heritage programs may include,**

- the promotion of the identity and heritage of the municipality and its communities;
- educational activities;
- recognition of and co-operative programs with community heritage organizations; and
- technical, staff and financial assistance to organizations and individuals for heritage conservation purposes.

**6.4 Municipal councils are authorized to establish, manage and contribute to endowment, emergency, long-term, revolving, trust or other special funds for the purpose of providing financial assistance toward the conservation of heritage within the municipality.**

**6.5 Municipal councils are authorized to apply under the *Corporations Act* for the incorporation of corporations without share capital for the purpose of receiving contributions to and managing these special funds.**

**6.6 Municipal councils are authorized to enter into commercial joint ventures, consistent with the purposes of this legislation, with private corporations and individuals.**



## Municipal Heritage Committees

A citizens advisory body can be an important forum for the participation of community interests in developing local conservation policy and making decisions about heritage resources. Many Ontario municipalities have chosen to appoint advisory committees with respect to architectural, archaeological, ecological and other areas of heritage interest.

Existing local architectural conservation advisory committees (LACACs appointed under the Ontario Heritage Act) have voiced concerns that their responsibilities are poorly defined. A stronger, clearer role for such committees in advising municipal council is needed.

Municipalities should be encouraged to create heritage advisory committees to advise on the exercise of municipal heritage powers and functions. Such committees should be the vehicle for involving the public in municipal heritage issues: they would represent appropriate community interests and would actively seek public input on heritage policy and planning. Because of the diversity of municipalities and because "one size does not fit all," the legislation should not impose a detailed mandate for these committees. It should require, however, that all committees are given a clear mandate and reporting relationship by their councils.

The Province should actively encourage and assist municipalities to create the right heritage bodies for their needs through guidelines, pilot projects, model by-laws, and manuals of operation. For example, provincial guidelines should encourage municipalities to involve councillors and planning staff on their heritage committees and to establish clear links between the committee and the planning department.

- 7.1 Every municipal council is authorized to establish and support municipal heritage committees, subject to provincial guidelines. The basic purpose of the committee is to provide advice to the council on heritage matters.**
- 7.2 Municipal councils are authorized to establish separate municipal heritage committees to deal with different heritage subjects or concerns, but will be required to assign clear mandates to all committees. A council may combine advisory functions and the management of a heritage facility in one committee.**
- 7.3 A municipal heritage committee will be required to address the matters and carry out the functions assigned to it. The committee is authorized to report directly to the council and will be required to do so with respect to any matter which may be subject to an appeal under this legislation.**

- 7.4 In carrying out its functions, the municipal heritage committee is authorized to consult or confer with any person. Committees will be expected to consider the views of the public and provide opportunities for public discussion of municipal heritage policies and programs.
- 7.5 Municipal council will be required to ensure that the people appointed to a municipal heritage committee reflect the expertise available, the skills required by the committee and appropriate community interests.
- 7.6 Municipal councils are authorized to establish joint municipal heritage committees.
- 7.7 Before exercising any powers given to a municipality under this legislation, the municipal council will be required to consult with and receive publicly a report from its heritage committee. Where no heritage committee exists, before exercising such powers council will be expected to ensure that the public is given adequate notice and an opportunity to comment.

Existing LACACs

- 7.8 An existing LACAC established under the current Ontario Heritage Act will be continued as a LACAC for up to two years. During this period the municipal council, after consultation with the LACAC, will be required to establish one or more municipal heritage advisory committees as the council decides.

## HERITAGE RESOURCE MANAGEMENT

### Heritage Resource Identification Powers

Before heritage elements can be legally protected or conserved in other ways, they must be clearly identified. A variety of tools or instruments for identification can be used depending upon the type of heritage feature.

The most common way of identifying heritage features is to place them on lists or inventories. This approach works well for artifacts and real property. Intangible elements, such as the stories or beliefs surrounding a particular community tradition or way of life, can also be listed, but they are better served by broader programs of documentation. The recording of intangible heritage elements using print and electronic media, for example, can be an important tool in their conservation.

- 8.1 Provincial ministries and agencies, municipalities and other public authorities are authorized to undertake the identification of heritage resources (heritage places, movable heritage property and intangible heritage) within their respective mandates.



## Provincial Inventory and Register

Modelled on inventories and registers in use in other jurisdictions, a province-wide inventory and register should be established by the Province. The Provincial Inventory would consist of all types of resources, tangible and intangible. The Provincial Register would include heritage places and movable heritage property that had been formally designated under the act.

**9.1 The Minister will be required to establish and maintain a Provincial Inventory of Heritage Resources, consisting of a record of:**

- heritage property listed by municipalities or the Minister [see Recognition of Heritage Places below];
- movable heritage property listed by the municipalities or Minister [see Recognition of Movable Heritage Property below]; and
- intangible heritage resources listed by the Minister.

**9.2 The Minister will be required to establish and maintain a Provincial Register of Heritage Property, consisting of a record of:**

- individual heritage property designated by municipalities or the Minister [see Designation of Individual Properties below];
- heritage conservation areas [see Designation of Heritage Conservation Areas below];
- classes of protected heritage site [see "Automatic Protection" below]; and
- movable heritage property designated by the municipalities or Minister (see Designation of Movable Heritage Property below).

**9.3 The Inventory and Register will be maintained in a manner and format which facilitates public access and will include:**

- a description of each resource sufficient to readily identify the resource, and
- in the case of the Register, the reasons why the property was designated, with the property's heritage features specifically identified, and the grade of designation assigned to the property.

## Heritage Impact Assessment

To avoid or limit adverse effects on irreplaceable heritage resources, decisions about new development and other projects should incorporate ways of assessing the heritage impacts of the proposal. For example, the construction of a highway may impinge on natural and built heritage features, and may also affect intangible heritage elements, such as traditional transportation routes and agricultural practices.

Similar to environmental assessments, a heritage impact assessment provides information and make recommendations about how to avoid, lessen or enhance effects on identified heritage features. The assessment is normally undertaken as part of an approval process (e.g. under heritage or planning legislation) and informs the decision of the approving authority as to whether a project should proceed, and on what terms.

Heritage assessment can also be "stand alone" - for instance, where a public authority has the power to order an assessment in cases where a potential, but unevaluated, heritage property is threatened (e.g. by a request for a demolition permit). The assessment itself does not protect the property, except temporarily pending its completion. Depending on the results of the assessment, the property could then be designated or protected in some other way.

- 10.1 A local municipality is authorized to require a heritage impact assessment with respect to:**
- a) proposals to alter or demolish a designated heritage property, or a property adjacent to such a property;**
  - b) proposals to demolish or erect structures or make alterations within a heritage conservation area; and**
  - c) proposals to alter or demolish a property listed on the Provincial Inventory, or a property adjacent to such a property, provided the municipality has statements in its official plan regarding the requiring of heritage impact assessments for the alteration or demolition of listed property.**
- 10.2 The Minister is authorized to order a heritage impact assessment in any situation where there is reason to believe that a property of heritage value may be endangered.**

- 10.3 Where an impact assessment is required, changes to the property will be prohibited for a period to be defined in the regulations (sufficient to allow for the completion and acceptance of the assessment and for appropriate action to be taken).
- 10.4 Minimum standards for heritage impact assessments will be prescribed in the regulations.



### Recognition of Heritage Places

Heritage places may be defined as any real property of heritage interest, including structures, landscapes, vistas, natural areas, cemeteries and other burial places, archaeological and palaeontological sites. Places may be individual properties, districts or areas, trails or corridors.

There should be a simple, expeditious means by which places of known or apparent heritage interest can be formally identified and recognized. Such places should be listed on the Provincial Inventory, which could be widely accessed by government bodies, organizations, and private individuals.

Recognition itself should not carry any statutory controls or restrictions; it would be used as a flag that heritage resources are or may be present.

At the provincial level the Minister of Culture and Communications would list places on his/her own initiative or on behalf of other ministers, e.g. the Minister of Natural Resources.

- 11.1 The Minister and municipal councils are authorized to list heritage places meeting prescribed criteria on the Provincial Inventory.**
- 11.2 Prior notice and an opportunity to be heard shall be given to the owners of affected property.**

## Designation of Heritage Places

### *Designation - Individual Properties*

Existing designation under Part IV of the *Ontario Heritage Act* has been a mixed success. While several thousand properties have been designated and recognized as significant heritage resources, many worthy properties remain unprotected. Even designated buildings can be demolished following a "waiting period." Municipal designation is currently available only for properties of architectural or historic interest.

An updated heritage designation system for Ontario should satisfy the following criteria:

1. Broad scope - designation must be available to protect all types of heritage site/area, natural and cultural, meeting certain criteria.
2. Presumption in favour of conservation - municipal or provincial decisions on changes to designated property would be subject to an onus or presumption in favour of conservation of heritage features.
3. Adequate protection powers - changes, including demolition, to designated places should require municipal approval.
4. Provincial protection - the Province must be required to identify and protect places of provincial importance.
5. Provincial policies/guidelines - the Province must provide municipalities with policies, guidelines, etc. for protecting and preserving heritage places.
6. Planning Act congruity - a new designation system must be better integrated into the land use planning system in Ontario.
7. Public involvement - a new system must provide enhanced opportunity for citizen/community involvement in designation decisions while streamlining public notice requirements.
8. Binding appeals - the designation process must provide for binding appeals to a provincial agency.
9. Binding on the Crown - designation must be binding on the Province as well as other public and private owners.

Designated properties should also be graded based on their significance. The purpose of grading is to indicate the relative significance and value of designated properties and to provide corresponding levels of control and assistance.

#### Designation of property

- 12.1 The council of a local municipality is authorized to designate any property of heritage significance within the municipality that meets criteria to be prescribed in the regulations.
- 12.2 The Minister of Culture and Communications is authorized to designate any property of heritage significance that meets prescribed criteria.
- 12.3 In the designation of a property, the elements or features of the property that are considered to be of heritage interest will be clearly specified.
- 12.4 Designated property shall be graded based on its significance. The grade of a property will determine:
- the level of control over alterations;
  - in the case of structures, the level of control over demolition;
  - the level of financial support to which the property may be entitled; and
  - the authority (i.e. provincial or municipal) responsible for approvals.

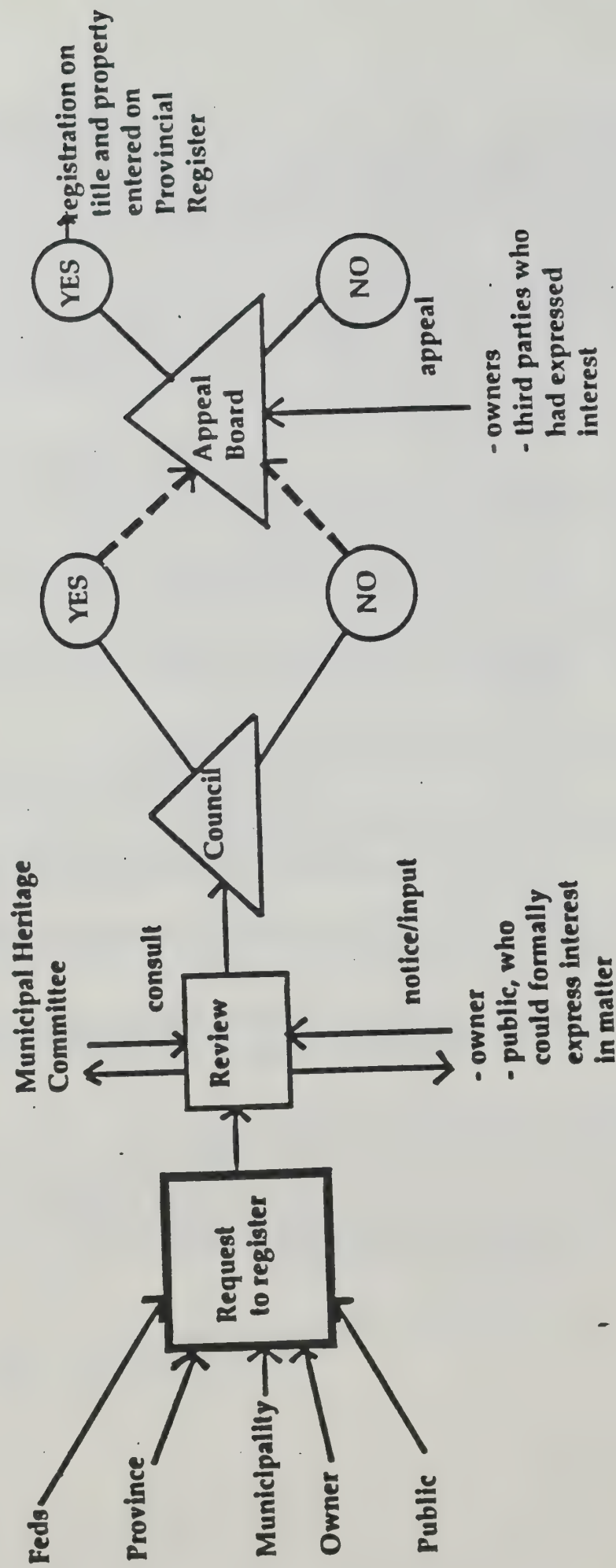
Note: Specific criteria for the different grades and the degree of control conferred by each is still under development by the MAC.

#### Procedure for designation (also see diagram)

- 12.5 Any person is able to apply to have property designated as heritage property. The application would be made to the municipality, or, where none exists, to the Minister.



# RECOMMENDED PROCESS FOR MUNICIPAL DESIGNATION (INDIVIDUAL PROPERTY)



- 12.6 Detailed procedures will be set out in the regulations. Where there is a municipal heritage committee [see Municipal Heritage Committees, above], the application shall be referred to the committee. The committee shall consult with the owner of the property and the applicant; it may also consult with heritage organizations and convene public meetings to ascertain the views of the public. It shall report directly to the municipal council concerning whether or not the property should be designated, the reasons for the designation and the proposed grade, and any alternative means for preservation of the property.
- 12.7 After receiving any report of its heritage committee, and providing notice to the property owner, the applicant and the public, the council (or the Minister) shall decide whether to designate the property. Options for giving public notice will be set out in the regulations.
- 12.8 Any person dissatisfied with the decision may appeal to the Ontario Heritage Board. The Board shall hold a hearing and may confirm the designation, confirm or vary the assigned grade or set the designation aside.

#### Consequences of designation

- 12.9 In exercising their powers under heritage legislation, the Planning Act or any other act, the municipality and every public authority will be required to pay special attention to the need for preserving the specified heritage elements or features of designated properties.
- 12.10 Alteration or demolition of the specified heritage elements of designated properties will require the approval of the municipality. In exercising this power of approval, the municipality will be subject to the requirement set out in the preceding paragraph.
- 12.11 Alteration will be defined to include any deliberate change to the specified heritage elements, including moving or removal of heritage elements and sandblasting and other cleaning techniques.
- 12.12 The council is authorized to enact by-laws prescribing standards for the maintenance of designated properties or classes of designated property.
- 12.13 Where as the result of a refusal to allow demolition or alteration of a designated property all beneficial use of the property is denied, the owner shall be entitled to compensation for the loss of use of the property.

Procedure for alteration and demolition (also see diagram)

- 12.14 The owner of a designated heritage property will be able to apply to the municipality (or Minister if provincially designated) to alter or demolish a designated heritage property.
- 12.15 Detailed procedures will be set out in the regulations. A heritage impact assessment of the proposed change may be required. Where there is a municipal heritage committee the application shall be referred to the committee. The committee shall consult with the owner; it may also consult with heritage organizations and convene public meetings to ascertain the view of the public. It shall report its recommendations directly to the municipal council.
- 12.16 After receiving any report of its heritage committee and providing notice to the property owner and to the public, the council shall decide whether to approve the application and on what terms. Options for giving public notice will be set out in the regulations and will be appropriate to the degree of the proposed change (e.g. demolition, exterior alteration, interior alteration).
- 12.17 Any person dissatisfied with the decision may appeal to the Ontario Heritage Board. The Board shall hold a hearing and may confirm or vary the decision.
- 12.18 The municipal council is authorized to delegate decisions with respect to certain classes of alterations to appropriate municipal officials.

Existing designations

- 12.19 A property already designated under the *Ontario Heritage Act* will automatically become a property designated under this legislation and will be graded accordingly.

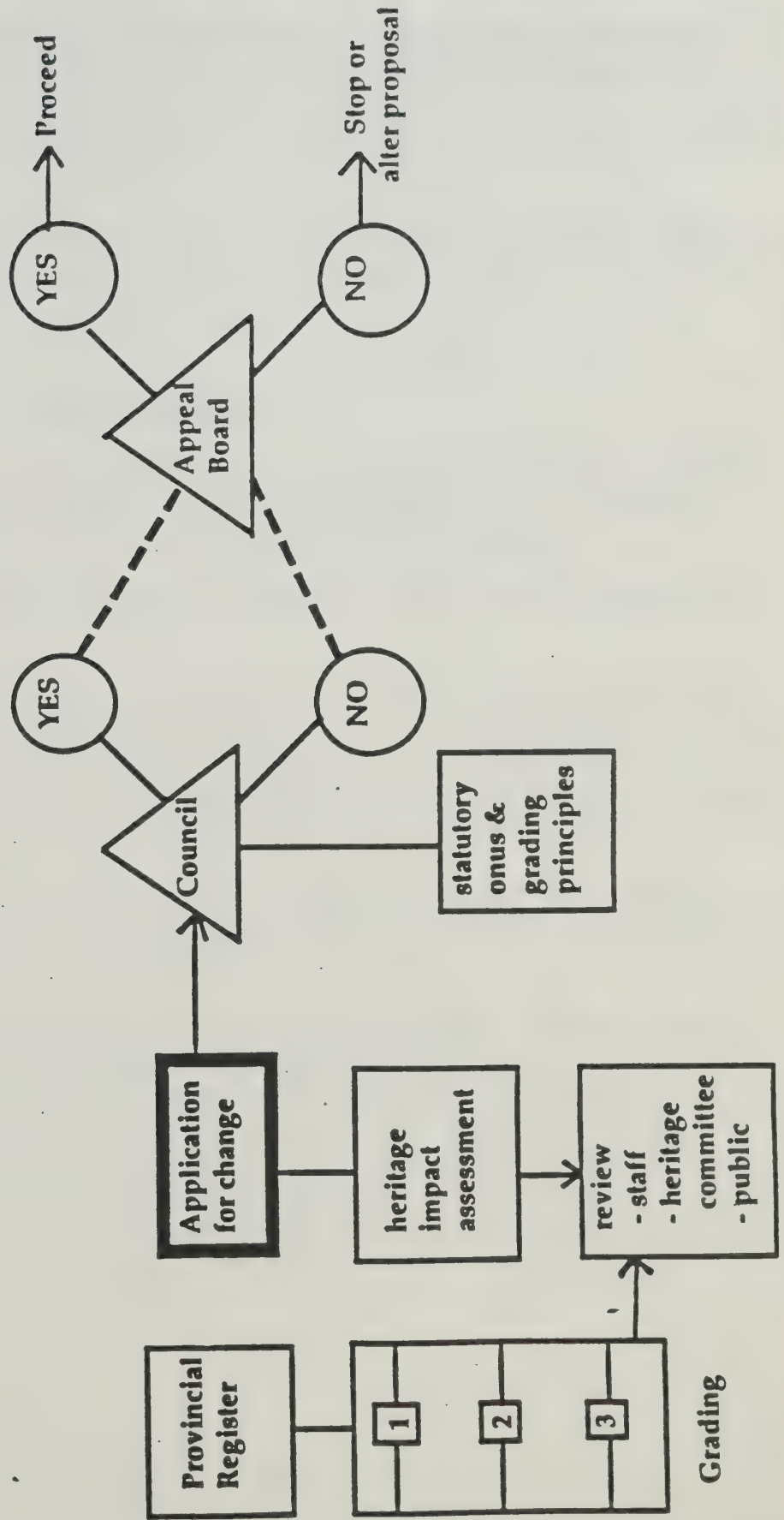
Removal of designation

- 12.20 The owner of a designated heritage property is able to apply to have a designation removed. The procedure will be the same as for designation, except that a public hearing will be required.



# RECOMMENDED PROCESS FOR CHANGES TO DESIGNATED PROPERTY

(changes = alteration, demolition)



Change to grade

12.21 The procedure to change the grade of a designated property will be the same as for designation.

## *Designation - Heritage Conservation Areas*

As in the case of Part IV designation, there is now considerable experience with the designation of heritage conservation districts under Part V of the current act. Changes to district or area designation would bring it closer into line with proposed individual property designation, while correcting some of the specific shortcomings of Part V.

Area designation would be available for rural as well as built-up areas; within a heritage conservation area all types of heritage feature, natural as well as cultural, could be protected.

### Designation of heritage conservation areas

- 13.1 The council of a local municipality is authorized to designate as a heritage conservation area any area of special heritage interest whose character or appearance the municipality desires to preserve or enhance.
- 13.2 Where no municipality exists, the Minister is authorized to designate such areas.
- 13.3 Designation of a heritage conservation area will require the adoption of a plan for the area. The plan will set out why the area is of special heritage interest and what its distinctive character or appearance is, and will include guidelines for the purpose of managing change to the area. More detailed requirements for such plans will be prescribed in the regulations.
- 13.4 Any person is able to apply to have an area designated as a heritage conservation area. The application shall be made to the municipality, or, where none exists, to the Minister.
- 13.5 Detailed procedures will be set out in the regulations. Where there is a municipal heritage committee [see Municipal Heritage Committees, above], the application shall be referred to the committee. The committee shall consult with owners and residents of the area and the applicant; it may also consult with heritage organizations and convene public meetings to ascertain the views of the public. It shall report to the municipal council concerning whether or not the area should be considered for designation and an area plan prepared, as well as any alternative means for preservation of the area.



- 13.6 Review by the municipal heritage committee, notice to the property owners and the public and public meetings will be required before the council approves the area plan. Detailed procedures will be modelled on the Planning Act provisions for the development of secondary plans.
- 13.7 The municipal council will be required to establish an advisory committee for the area whose purpose is to provide advice to the council on the implementation of the area plan.
- 13.8 Any person dissatisfied with the council's decision may appeal to the Ontario Heritage Board. The Board shall hold a hearing and may confirm or vary the plan or set the designation aside.

#### Consequences of area designation

- 13.10 In exercising their powers under heritage legislation, the Planning Act or any other act, the municipality and every public authority will be required to pay special attention to the need for preserving or enhancing the character or appearance of a heritage conservation area.
- 13.11 Erection and demolition of structures, and alterations, as defined in the area plan, will require the approval of the municipality. In exercising this power of approval, the municipality will be subject to the requirement set out in the preceding paragraph and the guidelines for change set out in the area plan.

#### Procedure for erection, demolition and alteration

- 13.12 Procedures governing applications to erect or demolish buildings or to make other alterations within the heritage conservation area will parallel those for individual property designation [see above] as supplemented by specific requirements in the area plan.
- 13.13 In the case of an application to alter or demolish a property within a heritage conservation area that has been individually designated, the procedure will be as set out in the previous paragraph.
- 13.14 Any person dissatisfied with the municipality's decision may appeal to the Ontario Heritage Board. The Board shall hold a hearing and may confirm or vary the decision.

- 13.15 The municipal council is authorized to delegate decisions with respect to certain classes of alterations to appropriate municipal officials.

Existing heritage conservation districts

- 13.16 A heritage conservation district designated under the *Ontario Heritage Act* will automatically become a heritage conservation area designated under this legislation.

## Recognition of Movable Heritage Property

Movable heritage property may be defined as any personal property (as opposed to real property) of heritage interest, including artifacts, documents and other objects or collections. Such objects or collections would include recordings or representations of intangible heritage resources, e.g. a video of a traditional dance.

Official recognition of artifacts and documentary heritage materials may be useful for the purpose of identifying significant resources in public and private hands and keeping track of their location. The list could also be linked to incentive programs targeting movable heritage conservation and stewardship.

Eligible property could be listed on the Provincial Inventory. As in the case of the listing of heritage places, there would be no statutory restrictions as a result of listing. Since the Inventory would be publicly accessible, because of security concerns the official listing of privately held materials should require the owner's consent.

**14.1 The Minister or a municipal council is authorized to list on the Provincial Inventory movable heritage property that meets prescribed criteria.**

**14.2 The listing of privately-owned property will require the owner's consent.**



### Designation of Movable Heritage Property

The Province and municipalities should have the power to prevent the destruction, loss or export of significant heritage objects and collections, whether in public or private ownership. Such a power would be used appropriately only in the context of all other approaches to conserving significant objects or collections. It should be subject to detailed provincial guidelines.

In addition to use as a control mechanism, designation status could also entitle owners of designated objects to incentive programs such as grants for conservation work.

### Designation of movable heritage property

- 15.1 The Minister or a municipal council, upon notice to the owner of the property, is authorized to designate any movable property of heritage significance that meets prescribed criteria. The designation shall be recorded on the Provincial Register of Heritage Property.
- 15.2 Any person will be able to apply to have property designated as heritage property. The application shall be made to the municipality, or, where none exists, to the Minister.
- 15.3 Detailed procedures will be set out in the regulations. Where there is a municipal heritage committee [see Municipal Heritage Committees, above], the application shall be referred to the committee. The committee shall consult with the owner of the property and the applicant; it may also consult with heritage organizations and convene public meetings to ascertain the views of the public. It shall report directly to the municipal council concerning whether or not the property should be designated, the reasons for the designation, and any alternative means for preservation of the property.
- 15.4 After receiving any report of its heritage committee, and providing notice to the property owner, the applicant and the public, the council (or the Minister) shall decide whether to designate the property.
- 15.5 Any person dissatisfied with the Minister's or municipality's decision may appeal to the Ontario Heritage Board. The Board shall hold a hearing and may confirm the designation or set the designation aside.

- 15.6 Despite the *Freedom of Information and Protection of Privacy Act*, the Minister is authorized to refrain from disclosing the location of a designated property where the public interest requires the safe preservation of the property.

#### Removal of designation

- 15.7 The owner of designated movable property will be permitted to apply to the municipality or Minister for the removal of the designation. The municipality or Minister, upon notice to the owner of the property, is authorized to remove a designation. Public notice of the application or of the intention to remove the designation, will be required in those cases where public notice of the designation has occurred. Any person dissatisfied with the decision may appeal to the Ontario Heritage Board.

#### Consequences of designation

- 15.8 Alteration of designated movable property or its removal from the province will be prohibited unless authorized by a permit from the Minister.
- 15.6 The owner may appeal the Minister's decision to the Ontario Heritage Board.
- 15.7 Standards of care for designated heritage movable property will be prescribed in the regulations.

## Expropriation

Where other protection options are not adequate or available, it may sometimes be necessary to expropriate heritage property in the public interest.

Both municipalities and the Province should be able to expropriate property for conservation purposes, subject to the usual procedural and compensation provisions of the *Expropriations Act*.

- 16.1 The Minister and the council of a municipality are authorized, in accordance with the *Expropriations Act*, to expropriate a heritage property or movable heritage property for the purpose of preserving it.



## "Automatic" Protection

In contrast to heritage designation, where protection of heritage resources is the result of a case-by-case decision-making process, protection can also be conferred "automatically" by legislation.

This approach is especially useful where important heritage features are hidden and their location unknown, and where they are likely to be discovered in situations that threaten them (for example, in excavation for new buildings). Automatic protection is designed to safeguard these features and the information they contain pending evaluation of their importance.

Many features of this kind pertain to the earliest history of Ontario and provide the only available record of human activities. Many were produced by aboriginal cultures and are of particular interest to First Nations today. The major threats to this heritage are land development processes and the looting of sites.

Automatic protection could also be used for protecting certain classes of publicly-owned structures of heritage importance, e.g. 19th century courthouses.

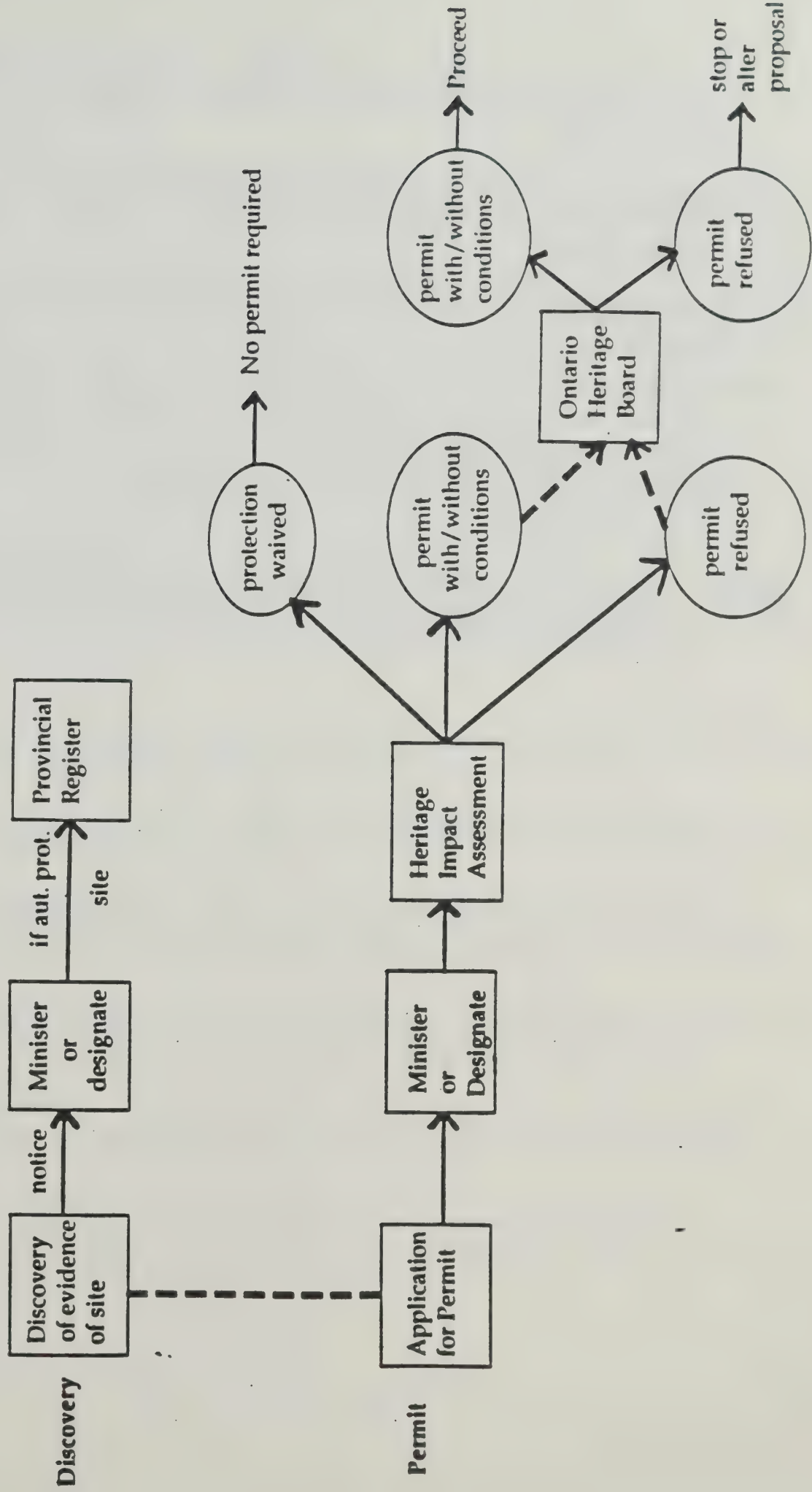
### **17.1 The following are classes of protected heritage site:**

- archaeological sites, other than shipwrecks, that are one hundred years old or older;
- shipwrecks that are fifty years old or older;
- unmarked burials; and
- property of public institutions, as prescribed by regulation.

For purposes of this provision, archaeological sites will be defined as locations where the remains of past human activity are found, but will exclude standing structures.

- 17.2 The Minister is authorized to issue permits for the alteration or disturbance of a protected heritage site (see diagram). The alteration or disturbance of a protected heritage site will be prohibited without a permit.**
- 17.3 A discoverer of an apparent protected heritage site shall report the discovery to the Minister as soon as possible (see diagram). The Minister shall determine whether the site is a protected heritage site and record the site on the Register of Heritage Places.**
- 17.4 The Minister is authorized to exempt or remove any heritage site from a class of protected heritage site.**

# Recommended Process for Discovery and Alteration of an Automatically Protected Site



- 17.5 In the event of the discovery of a previously unrecorded protected heritage site, the Minister will be required to respond to an application for a permit within 72 hours.
- 17.6 A person who is refused a permit or who is issued a permit subject to conditions is entitled to appeal the Minister's decision to the Ontario Heritage Board.
- 17.7 Procedures for the issuing and cancelling of permits will be prescribed by regulation.
- 17.8 Despite the *Freedom of Information and Protection of Privacy Act*, the Minister is authorized not to disclose the location of an archaeological site, shipwreck, or unmarked burial, other than to the owner of the property, where the public interest requires the safe preservation of the site. Criteria for this purpose will be prescribed in the regulations.

NOTE: Based upon negotiations with First Nations, special provision will need to be made for the protection and conservation of objects and places of aboriginal interest.



## Ownership of Finds

Heritage objects found in Ontario are at risk from inadvertent destruction, vandalism and trade in artifacts as well as from deterioration as a result of improper care.

The protection of such objects is often complicated by ownership issues. The finding of these resources may give rise to competing common law claims, with the rights of the owner of the land and the finder of the object taking precedence where no "true owner" is proven. Resources are therefore extremely vulnerable to trade and disposition without regard for the public interest or the interest of First Nations' communities in objects of aboriginal origin.

Many provincial governments have asserted Crown ownership of archaeological objects. This cuts out all claims except those of true owners. A major problem with such an approach is that government ownership of material of aboriginal origin may be inconsistent with current steps toward First Nations' self-government and jurisdiction over certain matters. In such cases a more appropriate concept would be that of trusteeship. As trustee, the provincial government could provide for the protection and custody of such items, pending the transfer of such responsibility to a First Nations community or other authority.

- 18.1 The Crown is the owner of all heritage objects found at a protected heritage site after this act comes into force.**

**Heritage objects are defined to include shipwrecks and objects of archaeological or scientific interest.**

- 18.2 The Minister is authorized to place heritage objects for safekeeping in appropriate heritage custodial facilities. The care and maintenance of such objects will be subject to prescribed standards.**
- 18.3 The Minister is authorized to dispose of heritage objects for which, in the Minister's opinion, continued safekeeping is no longer required.**
- 18.4 Possession, sale or exchange of heritage objects that were removed from heritage sites protected under this or previous legislation is prohibited.**

**NOTE: Based upon negotiations with First Nations, special provision will need to be made for the protection and conservation of objects and places of aboriginal interest.**

## Licensing of Archaeological Activity

As proposed above, the primary mechanism for the protection of archaeological resources in Ontario would be the statutory protection of sites. This mechanism would entail an approvals process for certain changes or activities affecting protected sites.

Within this new framework for archaeological protection, licensing should continue to play a role as a supplementary control mechanism for the practice of archaeology in the province. It should help to address the special need to ensure that proper archaeological methods and techniques are used in the survey and excavation of protected sites and in the treatment and disposition of associated collections. Through the reporting requirements, licensing should also continue to play a role in the detailed "tracking" of archaeological activity in Ontario.

Pending the development of a self-regulatory capacity by archaeologists, the Minister of Culture and Communications should continue to license archaeological activity.

### **19.1 The Minister is authorized to license archaeological activity.**

Exploring for, surveying, investigating or excavating archaeological sites for the purpose of obtaining objects or information about such sites is prohibited unless licensed.

### **19.2 A person may appeal the Minister's refusal to issue or renew a licence to the Ontario Heritage Board.**

### **19.3 Classes of licences, qualifications for licences, and procedures for obtaining and renewing licences will be prescribed in the regulations.**

## Heritage Easements

Heritage easements (or covenants) are voluntary agreements with the owners of heritage real property regarding the conservation of heritage features. Common law easements and covenants contain major limitations making them difficult to use for conservation purposes. These limitations can be "cured" with enabling legislation. The Ontario Heritage Act provides that, when registered on the property title, heritage easements "run with the land" and are binding on subsequent owners.

Easements are often seen as an effective and less costly alternative to full acquisition of a heritage property. While they are no substitute for heritage designation or other regulatory controls through the land use planning system, easements can play an important supplementary role. For instance, an easement could be negotiated on a property to provide additional protections (e.g. access of public, insurance coverage, etc.) not covered by designation.

The current act enables only the Ontario Heritage Foundation and local municipalities to negotiate such agreements. In the U.S. private, not-for-profit land trusts employ easements to protect millions of hectares of conservation and open space lands in the public interest. The Province has been urged to follow this example and empower non-government conservation bodies to hold easements, a move that would boost the nascent land trust movement in Ontario. While access to the easements tool should be extended to such organizations, there is a need to ensure these bodies are legitimate and capable and to monitor their easement activities.

- 20.1 Heritage easement agreements providing for the conservation of heritage property will be registered in Land Registry Offices and will be binding on the owner or any subsequent owners of the property.**
- 20.2 The following is authorized to enter into heritage easement agreements:**
  - (a) the Crown and any agency empowered to hold interests in land (such as the Ontario Heritage Foundation and conservation authorities)**
  - (b) municipalities, and**
  - (c) a non-profit corporation or trust, the powers of which include the power to hold interests in land of heritage interest for the benefit of the people of Ontario, and which is registered with the Minister for the purpose of entering into such agreements.**



- 20.3 The procedures for registration (as required in 20.2 (c) above) and minimum standards for heritage easement agreements will be prescribed in the regulations.
- 20.4 A heritage easement agreement may be assigned to any agency or organization eligible to enter into such agreements.

## HERITAGE CUSTODIAL AND OTHER FACILITIES

A heritage custodial facility may be loosely defined as any facility or operation holding and managing objects or documents of heritage interest, usually for the benefit of the public. Custodial facilities include museums, archives, art galleries and libraries, although in some cases the managing of heritage materials may be secondary to other functions.

Such facilities, and the collections they are responsible for, may be publicly owned, as in the case of a municipal museum, or may be owned by non-profit organizations or even other private bodies or individuals. The types and functions of such facilities also differ enormously: some are mainly concerned with documents or records (e.g. archives) while others focus on artifacts or other objects (e.g. museums); still others have a natural heritage focus (e.g. natural history collections). Some heritage facilities are not collections-based, e.g. "heritage resource centres," interpretation centres, etc.

Beyond the care of collections, custodial facilities usually provide public access to and interpretation of their collections. Most attempt to do this within a larger mandate of promoting and interpreting the history and heritage of their sponsoring organization, their place or area, or other theme. Within the museums field in particular the traditional focus on the acquisition and care of collections has been broadened as such facilities seek to redefine their purpose and role within their communities.

A new heritage act must provide a clear, flexible framework for heritage facilities within which appropriate regulations, policies and programs can be developed, implemented, and revised over time. In other words, the act should contain all of the necessary "hooks" for subsequent action in this area. This would not preclude a role for subsequent legislation, consistent with the proposed act, for archives or other custodial facilities.

Recognizing that heritage facilities vary in their ability to meet regulatory and other requirements, the legislation should allow for the grading of facilities based on their type or size (Type A facility, Type B facility, etc.).

### **21.1 The Minister is authorized to:**

- establish policies for the role of heritage facilities (including classes or grades of facilities),
- establish programs of grants and other assistance, and the conditions of such assistance,

- establish programs, standards and guidelines for the operation and management of heritage facilities, and
- undertake joint activities with municipal or private heritage facilities for heritage conservation purposes.

**21.2** The council of a municipality is authorized to:

- establish, acquire, operate and maintain heritage facilities;
- provide for the operation of heritage facilities under the direction of a board of management;
- authorize its municipally-owned or operated heritage custodial facilities to undertake joint activities with individuals, non-profit corporations and privately-owned heritage facilities for the purposes of heritage conservation; and
- provide financial or other assistance to private heritage facilities, and the conditions of such assistance.

**21.3** All heritage custodial facilities operated by provincial ministries and agencies will be required to meet criteria established by the Minister.

**21.4** The regulations should provide for:

- establishing classes or grades of heritage facility;
- prohibiting the disposition of collections on the closing of facilities without a permit from the Minister; and
- authorizing the Minister to issue permits for the disposition of collections on the closing of facilities, and establishing the procedure for the issuing of permits.



## ONTARIO HERITAGE BOARD

Fairness and due process require that some avenue of review or appeal be available to individuals and groups dissatisfied with regulatory decisions of government.

A major concern is the current lack of an effective appeal from municipal designation decisions involving individual property. This concern is linked to others about the fairness and openness of the decision-making process. The proposed strengthening of municipal designation, particularly with respect to demolition control, also supports the need for an effective right of appeal from municipal decisions.

A system of checks on municipal decision-making involving a provincial appeal body able to make binding decisions (not simply recommendations as with the current Conservation Review Board) is well-established in Ontario's land use planning system. The Ontario Municipal Board hears appeals on many planning and related matters.

- 22.1 There will be an Ontario Heritage Board composed of not fewer than five members appointed by the Lieutenant Governor in Council.
- 22.2 In considering who to appoint to the Board, the Lieutenant Governor in Council will be required to ensure that the people appointed to the Board reflect the expertise available, the skills required by the Board and the heritage interests of the province.
- 22.3 The Board will have jurisdiction to hear appeals from decisions made under this Act by a municipal council or the Minister.
- 22.4 The Board will hold hearings and perform other duties which may be assigned to it. A minimum of two members shall preside at hearings.
- 22.5 A hearing before the Board may be combined with a hearing before the Environmental Protection Appeal Board or the Ontario Municipal Board under the *Consolidated Hearings Act*.

## EMERGENCY POWERS

### 23.1 The Minister is authorized to:

- . issue orders requiring the immediate cessation of activities which may adversely affect a designated heritage property;
- . apply to a court for an order preventing the imminent destruction of a heritage property; and
- . designate a property, without a hearing and without liability, for up to ninety days.

Note: This section is still under development by the MAC.

## ENFORCEMENT

A common criticism of the existing legislation relates to the powers to enforce its provisions.

While provincial fine levels have been raised based on inflation, there remain concerns about the adequacy of penalty provisions for illegal demolitions and other violations and whether they provide a meaningful deterrent.

In addition to providing stiff after-the-fact penalties for violations, the law should also enable public authorities to seek court-supervised measures designed to anticipate and prevent illegal and potentially irreversible changes to heritage property.

- 24.1 This section will contain necessary powers for inspection as well as establish specific offences and the penalties for those offences. In addition, regulations will contain offences in respect of matters provided for in the regulations and establish penalties for those offences.

The maximum penalty for an offence committed by an individual will be \$50,000 and up to one year's imprisonment.

The maximum penalty for an offence committed by a corporation will be \$1,000,000. Directors of corporate offenders will be liable for up to one year's imprisonment.

**Note:** This section is still under development by the MAC.



## RELATIONSHIP TO OTHER LEGISLATION

To the extent that proposals in this Act conflict with or require the consequential amendment of other legislation, this section will resolve those issues. Other legislation likely requiring attention in this section are:

Cemeteries Act

Municipal Act

Planning Act

**Summary and Comments re:**

**THE DRAFT REPORT ON THE  
MINISTER'S ADVISORY COMMITTEE  
ON NEW HERITAGE LEGISLATION,  
DATED JUNE 17, 1992**

**A proposal to revise the Ontario Heritage Act**

Prepared for LACAC and City Council members by the Local Planning Branch, Heritage Planning, July 31, 1992

**1. Background:**

- .1 The Ontario Heritage Act was passed in 1975; beginning in the 1970's, the Ministry of Culture and Communications has requested comments on the effectiveness of this heritage legislation from LACACs. An official review of the O.H.A. was launched in 1987.
- .2 The present draft proposal by the Minister's Advisory Committee constitutes a **submission** to the Minister of Culture and Communications by the Minister's Advisory Committee; **it does not represent an official government position.**
- .3 The Minister's Advisory Committee requested comments from their constituent groups (including LACACs) within a three week deadline in order to submit their report to the Minister before September.
- .4 Because of the request that LACAC's comments be referred to the Planning and Development Committee, and because of the summer schedule for the committees, the Hamilton LACAC comments will be sent in September to the Minister of Culture and Communications rather than submitted to the Minister's Advisory Committee.
- .5 The six-year review period has demonstrated that **there is unanimous support for the need to revise the Ontario Heritage Act.**

## 2. Summary of the Major Proposed Changes

The issues selected here highlight those changes which would have the greatest impact at the municipal level. A further explanation of each point is given in the following pages.

It should be noted that this report is restricted primarily to those proposals which affect the present work of LACAC. It is recommended that those groups which would be affected by the proposed expansion of the Ontario Heritage Act mandate should themselves provide comments. In the same respect, archaeologists should be encouraged to respond on the proposals dealing with archaeology.

A brief chronology is attached at the back of the report.

The following ten recommendations have been selected for comment from The Minister's Advisory Committee Proposal:

- .1 That greater protection of a designated property be provided at the municipal level by granting Council the right to approve or deny a demolition permit application for a designated property.
- .2 That the Listing of Heritage Places be extended to include landscapes, vistas, natural areas, cemeteries, etc., as well as trails, corridors. No statutory control would be imposed.
- .3 That the definition of heritage properties be expanded to include "movable heritage" (documents, artifacts, paintings, etc.) and "intangible heritage" (traditions, values, skills and stories); and that responsibility under the Act would also be extended to heritage facilities such as museums, art galleries, libraries, archives, etc.
- .4 That the Provincial responsibility be expanded into a leadership role in heritage conservation by: (1) allowing the legislation to be binding on the crown; (2) establishing heritage policies, guidelines, etc. at the provincial level; and (3) establishing a Provincial Inventory (of Listed Buildings) and a Provincial Register (of Designated Buildings).



- .5 That Councils be required to establish heritage conservation policies and authorized to adopt heritage conservation plans, measures, etc.
- .6 That Municipalities be authorized to require a heritage impact assessment where there are proposals to alter or demolish designated properties.
- .7 That LACACs be renamed Municipal Heritage Committees throughout Ontario, continuing their same mandate. Other cultural advisory committees to Council would also be known as Municipal Heritage Committees, each with its own mandate, such as the Hamilton Historical Board.
- .8 That a designated property be graded based on its significance.
- .9 That compensation be provided in special hardship cases caused by the designation of a property.
- .10 That designation of a Heritage Conservation District and its appeal procedure follow the same procedure prescribed for individually designated buildings. In addition, the reparation of a Heritage Conservation District Plan will be required.

### 3. Summary of Comments

- .1 Of the above ten major changes proposed by the Minister's Advisory Committee to the Ontario Heritage Act, the issues described in # 1, 2, 4, 5, 6, and 10 reflect a strengthening and streamlining of the heritage conservation process at both the municipal and provincial level. These changes in policy are recommended.
- .2 The expansion of the mandate to include cultural heritage (in addition to real property) contained in # 3 and 7 depends to a large extent on the response from those institutions and committees presently responsible for these activities.
- .3 The two proposals related to designation in # 8 (grading) and # 9 (compensation) are expected to introduce further delays and possible complications. These additions to the Ontario Heritage Act in their present form are not recommended.
- .4 This report is a review of the proposed policy changes only. Implementing regulations, when prepared, will be of critical importance and should be reviewed at that time.
- .5 The present proposal (1992) omits a policy calling for new incentives for heritage conservation which was supported in the "Proposals for Legislation" dated 1990. Among those listed (Issue 21, p. 5) was a proposal to introduce a tax rebate incentive to encourage restoration of designated buildings, not by lowering current taxes but by temporarily delaying the increase caused by restoration.

**4. Explanation of proposals with comparisons and comments:**

It should be noted that the draft proposal at this point deals only with the new objectives of the Heritage Act; discussion of the implementing regulations will be undertaken at a later stage. The recommendations are:

- .1 That greater protection of designated properties be provided at the Municipal Level by Council (12.10, p.25) and at the Provincial Level by appeal to the Ontario Heritage Board (12.17, p. 26)**

**Proposal:** Alteration or demolition of designated properties will require the approval of the municipality. If there is an objection, an appeal can be made to the Ontario Heritage Board (formerly the Conservation Review Board).

**Current:** Alteration of a designated building now requires approval (or denial) by Council but the demolition of a designated building can only be delayed by Council for a 180-day waiting period but not prohibited.

**Comment:** This proposal addresses the most serious concern of the present legislation-the lack of protection against demolition of designated buildings. It is a criticism levied at the Ontario Heritage Act ever since it was passed in 1975. The proposal would provide the municipality the same degree of control over demolition as it now has over alteration.

It should be noted that heritage legislation in most provinces (except for 3 others) allows the municipality the option of permanent protection against demolition.



**.2 That the Listing of Heritage Places be extended to include landscapes, vistas, natural areas, cemeteries, etc. as well as trails or corridors. (11.1, 11.2; p. 22)**

**Proposal:** The Listing of Heritage places does **not** carry any statutory controls or restrictions.

**Current:** There is no system at present which allows the Listing of significant open spaces as opposed to objects which can be identified by name or street number.

**Comment:** This is a welcome proposal intended to facilitate identification and recognition of outstanding landscapes, vistas, and corridors which may be composed of natural or combined natural and man-made sites.

Since these large-scaled urban features often count among the most important assets of a municipality, such a List could be essential to planning appropriate change in the future.

The proposal calls for the use of provincially prescribed criteria in the evaluation process, thereby helping to provide consistency at the municipal level.

The Listing process will provide for prior notice to owners of affected properties.

- .3 **That the definition of heritage properties be expanded to include "movable heritage" (documents, artifacts, paintings, etc.) and "intangible heritage" (traditions and values, skills and stories); and that responsibility under the Act would also be extended to heritage facilities such as museums, art galleries, libraries, archives, etc. (8.1, p. 18; 9.1, p.19; 21.1, p. 41)**

**Proposal:** The new provisions would authorize the identification of heritage resources; a Provincial Inventory of Heritage Resources. It would be required allow the Province, through designation of movable heritage, to prevent the destruction, loss or export of significant heritage objects and collections.

**Current:** At present, there are no provisions in the Ontario Heritage Act to protect or regulate cultural heritage other than by means of real property.

**Comment:** With this new mandate, the Ontario Heritage Act not only continues to provide protection for the Province's architectural heritage but also formally extends responsibility over the larger context of cultural heritage.

Heritage conservation is, in fact, not an isolated activity but rather an integral part of the larger areas of cultural heritage as well as environmental protection.

Because this aspect of the Heritage Act would affect the management of the City Museums, **it is recommended that comments on this section be coordinated with the Hamilton Historical Board.**

It would be appropriate for the Department of Culture and Recreation, the Hamilton Art Gallery and the Hamilton Public Library to comment on the proposed expansion of the Ontario Heritage Act mandate.

- .4 That the Provincial responsibility be expanded into a leadership role in heritage conservation by: (1) allowing the legislation to be binding on the crown; (2) establishing heritage policies, guidelines, etc., at the provincial level; and (3) establishing a Provincial Inventory (of Listed Buildings) and a Provincial Register (of Designated Buildings) (4.1; 5.1; 5.2; 5.3--pp 12-13)

Proposal: The Province will be assigned a **leadership role** in heritage conservation by the above proposals; also heritage conservation policies will be a requirement for all provincial ministries.

Current: The Province does not at present have to be regulated by its own heritage legislation; nor has the Province formally established its own heritage conservation policies or inventory.

Comment: This proposal remedies a serious omission whereby the large and valuable resource of Provincially-owned heritage buildings are left unprotected by any heritage legislation. The precedent was established when the Province was allowed to demolish (legally) its own designated Don Jail at 999 Queen Street, Toronto, in 1977.

Re: heritage conservation policy, each community has been left to invent its own policies despite the common need and common problems experienced at the municipal level. Provincial heritage conservation policy would assist municipalities in establishing consistent local policies.

A Provincial Inventory (of Listed Buildings) and a Provincial Register (of Designated Buildings) would correct the current situation where Buildings of Provincial Importance may be overlooked and left unprotected.

Note: Ontario is the only province in Canada which does not provide protection of designated properties at the provincial level.



**.5 That Municipalities be required to establish heritage conservation policies and authorized to adopt heritage conservation plans, measures, etc. (6.1; 6.2--p. 14-15)**

**Proposal:** Municipalities will be encouraged to take a more "pro-active" role in heritage conservation through establishing policies, programs, etc.

**Current:** The current legislation does not require heritage conservation policies, plans and programs although a Heritage Conservation District can only be designated if the Official Plan contains such policies.

**Comment:** Heritage conservation policies approved by Council would provide a much-needed focus and coordination among municipal departments.

Heritage conservation requires a coordinated approach--depending upon the case, any of the following departments might be involved in the conservation of significant municipal heritage buildings/structure--Planning, Building, Clerk's, Culture and Recreation, Engineering, Parking Authority, Property, Solicitor's, etc.

**.6 That Municipalities be authorized to require a Heritage Impact Assessment where there are proposals to alter or demolish designated properties. (10.1-10.4; pp. 20-21)**

**Proposal:** This proposal would include also Provincially designated properties or a property listed on the Provincial Inventory or property adjacent to such property;

**Current:** There is no standardized process at present for reviewing new development proposals which affect designated heritage properties.

**Comment:** Without a standardized review process in place, new development proposals which adversely affect heritage properties can lead to adversarial situations, resulting in sometimes irreconcilable, polarized positions.

A Heritage Impact Assessment would offer a greater opportunity for resolution by:

(1) taking place in the formative stages of the proposal, and

(2) providing an objective, technical assessment of the heritage property. This document could then serve as a basis for reaching an appropriate solution to the site.

**Note:** Minimum standards for heritage impact assessments will be provided in the regulations.

- .7 That LACACs be renamed Municipal Heritage Committees throughout Ontario, continuing their same mandate. Other cultural advisory committees to Council would also be known as Municipal Heritage Committees, each with its own mandate, such as the Hamilton Historical Board (7.1; 7.2--pp. 16-17)

Proposal: It would appear that this proposal requires a change in name only. The committee will still provide advice to Council on heritage matters.

Current: The same.

Comment: Unlike the previous proposal of 1990, whereby one Municipal Heritage Committee was to assume responsibility over all fields of cultural heritage, the current proposal provides for separate Municipal Heritage Committees to deal with different heritage subjects or concerns, each with its own mandate.

As in issue # 3, those committees which would be affected by a name change should be consulted on this point, such as the Hamilton Historical Board.



**.8 That a designated property be graded based on its significance. (12.4; p.24; 12.19, 26)**

**Proposal:** A new system is proposed whereby a **designated property will be graded based on its significance**. The purpose is to determine the level of control or support re: alterations, demolitions, funding, etc. The proposal also would require the grading of properties already designated.

**Current:** No formal grading system exists presently, although on a case by case basis, when demolition or alteration of a designated property is requested, the property's value to the community and to the province is assessed. This evaluation then determines an appropriate level of action.

**Comment:** It is agreed that an evaluation of a heritage property is critical to determining the level of protection the building should receive but, by including this requirement formally in the legislation, considerable problems could arise later.

Most obviously, the value of a heritage property may change over the course of time ( increasing if it should become the last such example or decreasing if it should lose a compatible setting).

Furthermore, the potential for saving and incorporating a heritage property in a new development depends on a case by case analysis of the issues, rather than on the heritage value of the building. A solution, therefore, can not be predetermined based on the building's rating.

**Incorporating a grading system for designated buildings in the proposed Ontario Heritage Act is, therefore, not recommended.**

- .9 That compensation be provided in special hardship cases for a designated property.**  
(12.13, p. 25)

**Proposal:** A new approach is proposed whereby an owner would be entitled to **compensation**, if it can be proven that all beneficial use of the property is denied as a result a refusal by Council to allow the demolition or alteration of a designated building.

**Current:** There is no provision for compensation under the present Ontario Heritage Act.

**Comment:** The issue of compensation in respect to heritage conservation has proven to be highly controversial in British Columbia where it was incorporated into their provincial heritage legislation. It has deterred designations and introduced additional costs to the municipalities.

**Incorporating the provision for compensation into the Ontario Heritage Act is, therefore, not recommended.**

- .10 That the designation of a Heritage Conservation District and its appeal procedure follow the same procedure prescribed for individually designated properties. In addition, the preparation of a Heritage Conservation District Plan will be required. (13.1-13.14, pp. 28-29)**

**Proposal:** This proposal coordinates the designation process for both individual property designation and district designation. Council designates the properties or districts and the Ontario Heritage Board hears any appeals and makes the final decision.

**Current:** In the present legislation, the two types of designation are treated differently; Council gives final approval to the designation of individual properties and the O.M.B. gives final approval to Districts. Also, the appeal bodies are different: for individually designated properties, the Conservation Review Board hears the appeals while for districts, the O.M.B. hears the appeals.

**Comment:** This proposal addresses the split between individual property and district designation which has resulted in considerable unevenness of treatment and long delays. By placing the final decision-making of an appeal case with the provincial Ontario Heritage Board, this proposal follows the same format established under the Planning Act, where the O.M. B. acts as the final appeal board for local planning matters.

Heritage Conservation District Plans are currently prepared at the time of designation, in accordance with the direction of the Ministry of Culture and Recreation. The proposal would recognize the importance of this procedure by making it a legal requirement under the Act. Plans are to be modelled on the Planning Act provisions for the development of secondary plans.



#### 4. Chronology:

- 1987                      The current review of the Ontario Heritage Act and Heritage Policy was initiated;
- 1990 (May)              The Minister of Culture and Communications announced adoption of a new Heritage Policy statement.
- 1990 (Aug. 8)          LACAC reviews and submits preliminary comments on "Proposals for Legislation" to the Ontario Heritage Act.
- 1991 (May)              The Minister's Advisory Committee on New Heritage Legislation (MAC) was established. 17 groups affected by heritage legislation were represented, including the development industry (Urban Development Institute). The Draft Report has been prepared by this committee.
- 1992 (July 13)          The committee (MAC) circulated their Draft Report to Ontario LACACs as well as to its other member groups for comment. Deadline for comments to MAC is Aug. 11th in time for an Aug. 17th meeting.
- 1992 (Sept.)            Proposal to be reviewed by LACAC and comments forwarded to the Planning and Development Committee.



**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 16 1992

**DATE:** 1992 September 8  
CI-92-C  
Allison Neighbourhood

CITY CLERKS

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** City Initiative for a change in zoning - part of lands municipally known as 240 Rymal Road East.

**RECOMMENDATION:**

- A. That approval be given to City Initiative 92-C Regional Municipality of Hamilton Wentworth, owner, for a change in zoning from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District, modified, to permit development of the subject lands (Block "3" on Appendix "C") in conjunction with the abutting lands to the west (Block "2" on Appendix "C"), which are to be developed for townhouses and/or multiple dwellings (stacked townhouses), for part of property municipally known as 240 Rymal Road East, as shown on the attached map marked as Appendix "A", on the following basis:
- i) That the subject lands be rezoned from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District;
  - ii) That the "DE-3" (Multiple Dwellings) District regulations as contained in Section 10C of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variance as a special requirement:
    - a) That Section 10E(2)(a)3. of Zoning By-law No. 6593 shall not apply to the land fronting onto Rymal Road East or Upper Wellington Street.
  - ii) That Schedule "A" of By-law 92-211 be amended by adding the subject lands to Block "2";
  - iii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1278a, and that the subject lands on Zoning District Maps E-9D and E-18E be notated S-1278a;



- iv) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-9D and E-18E for presentation to City Council;
- v) That the proposed change in Zoning is in conformity with the Official Plan for the Hamilton Planning Area;
- vi) That the Allison Neighbourhood Plan be amended by redesignating the subject lands from "ATTACHED HOUSING" to "LOW DENSITY APARTMENTS".

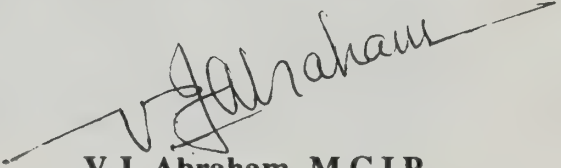
***EXPLANATORY NOTE:***

The purpose of the By-law is to provide for a change in zoning from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District, for part of lands municipally known as 240 Rymal Road East, as shown on the attached map marked as Appendix "A".

The effect of the By-law is to permit development of the subject lands in conjunction with abutting lands to the west, which are to be developed for townhouses and/or multiple dwellings (stacked townhouses).

In addition, the By-law provides for a variance to prohibit street townhouse dwellings fronting directly onto Rymal Road East and Upper Wellington Street.

**J.D. Thoms, M.C.I.P.**  
**Commissioner**  
**Planning and Development Department**

  
**V.J. Abraham, M.C.I.P.**  
**Director of Local Planning**

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

- Proposal

The purpose of the proposed change in zoning is to permit development of the subject lands (Block "2" - APPENDIX "C") in conjunction with abutting lands to the west (Block "2" - APPENDIX "C"), which are to be developed for townhouses and/or multiple dwellings (stacked townhouses).

- Zoning Application 91-76

On July 28, 1992 City Council adopted the recommendation of the Planning and Development Committee to rezone adjoining lands to the west of the subject lands from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District, modified. The recommendation included variances to the "DE-3" District regulations including, among others, the prohibition of street townhouses fronting onto Rymal Road East or Upper Wellington Street. On August 19, 1992 City Council passed By-law 92-211 (see Appendix "C") rezoning the subject lands but, to date, it has not been finalized.

- Land Severance Application

At its meeting held on August 18, 1992, the Regional Land Division Committee approved land severance application H-78-92 (see Appendix "B") to convey an irregular shaped parcel of land, which includes the subject lands, having a frontage of 107.45 m on Rymal Road East and a lot area of 10,016.32 m<sup>2</sup> for residential purposes, and to retain the balance of the holding also irregular in shape having 22.0 m of lot frontage on Rymal Road East and a lot area of 9.8 ha for residential purposes. One of the conditions of approval of the Regional Land Division Committee was that the applicant apply for and receive approval of a by-law rezoning the lands to permit the proposed multiple residential development.

***LOT SIZE AND AREA:***

- 12.192m (40.0 ft.) of lot frontage on Rymal Road East;
- 86.840m (284.90 ft.) of lot depth; and,
- 1,058.7 m<sup>2</sup> (11,396.3 sq. ft.) of lot area.

***LAND USE AND ZONING:***

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject lands</u>	vacant	"AA" (Agricultural) District
<u>Surrounding Lands</u>		
to the north	vacant lands and a single- family dwelling	"AA" (Agricultural) District

to the south	vacant	"AA" (Agricultural) District
to the east	Mount Hamilton Cemetery	"AA" (Agricultural) District
to the west	vacant	"DE-3" (Multiple Dwellings) District modified, pending final by-law approval

### ***OFFICIAL PLAN:***

The subject lands are designated "RESIDENTIAL" on Schedule "A"- Land Use Concept of the Official Plan. The following policies would apply, among others:

- "2.1.1      The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
  
- A.2.1.8      It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.
  
- A.2.1.14      In evaluating the merits of any proposal for multiple-family RESIDENTIAL development, Council will be satisfied that the following considerations are met:
  - i)      The height, bulk and arrangement of buildings and structures will achieve harmonious design and integrate with the surrounding areas; and,
  - ii)      Appropriate open space, including landscaping and buffering, will be provided to maximize the privacy of residents and minimize the impact on adjacent lower-density uses.
  
- C.7.1      In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity:
  - i)      Provision and maintenance of adequate off-street parking;
  - viii)      Other similar actions or matters as Council may deem appropriate.



- C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value.
- C.7.3 Council will ensure that the local RESIDENTIAL ENVIRONMENT is of a condition and variety satisfactory to meet the changing needs of area residents. Accordingly, Council will:
- iii) Encourage RESIDENTIAL development that provides a range of types and tenure to satisfy the needs of the residents at densities and scales compatible with the established development pattern;
  - vii) Encourage development at densities conducive to the operation of Public Transit and which utilizes designs or construction that are energy efficient."

The proposal complies with the intent of the Official Plan.

#### ***NEIGHBOURHOOD PLAN:***

The subject lands are designated for "ATTACHED HOUSING" development on the approved Allison Neighbourhood Plan. The proposal does not comply. Approval of the application would require redesignation to "LOW DENSITY APARTMENTS".

#### ***COMMENTS RECEIVED:***

- The Building Department, Hamilton Region Conservation Authority and TransCanada Pipelines have no comments or objections.
- The Traffic Department has advised that:  
  
"... we have reviewed the application and find it satisfactory subject to a provision prohibiting street townhouses".
- The Hamilton Wentworth - Roads Department has advised that:  
  
"There are existing watermains available to service these lands. Separate storm and sanitary sewers will not be available until sometime later in 1992.

The designated road allowance width of Rymal Road is 36.58m (120 feet). Therefore we require that sufficient lands be retained by the Region to establish the property line 18.29m (60 feet) from the centreline of the Rymal Road road allowance. As shown on the attached plan, lands outlined on the attached plans must be retained by the Region for the establishment of Upper Wellington Street Extension and the remainder sold to the

owner of lands to the west to be included in subdivision and/or site plan approval. As noted, all dimensions on the attached plans are preliminary and specific dimensions must be confirmed by an Ontario Land Surveyor.

Any works which may occur within the Rymal Road road allowance or the extension of Upper Wellington Street must conform to the respective Streets By-laws.

We recommend that as a condition of development of these lands and lands to the west that the City of Hamilton and the Region recover all appropriate servicing costs for the establishment and construction of Upper Wellington Street through the appropriate agreements.

Our comments on the Land Severance Application H-78-92 are also attached."

#### **COMMENTS:**

1. The proposal complies with the intent of the Official Plan.
2. The proposal does not comply with the intent of the approved Allison Neighbourhood Plan. Approval of the application would require redesignation of the subject lands from "ATTACHED HOUSING" to "LOW DENSITY APARTMENTS".
3. The proposal has merit and can be supported for the following reasons:
  - the requested change in zoning involves the addition of a narrow remnant parcel of vacant Regionally owned land which is being acquired by the adjoining property owner to "round out" development at the south west corner of Rymal Road East and the proposed extension of Upper Wellington Street and, therefore, it would be appropriate for the proposed development;
  - it implements the condition of approval of the land severance application by the Regional Land Division Committee requiring the rezoning of the subject lands;
  - it would be compatible with existing and planned low density development in the surrounding area;
  - it is suitably located at the intersection of two major roads (Rymal Road East and Upper Wellington Street), and is on a public transit route (Route 25).
4. As the subject lands are being acquired and developed by the adjoining property owner to the west, and to be consistent with the zoning already approved for these lands, it would be appropriate to amend By-law 92-211, passed by City Council on August 25, 1992, by adding the subject lands to Schedule "A". In this regard, Schedule "A" to By-law 92-211 should be repealed and substituted with a new Schedule "A" showing the

enlarged Block "2".

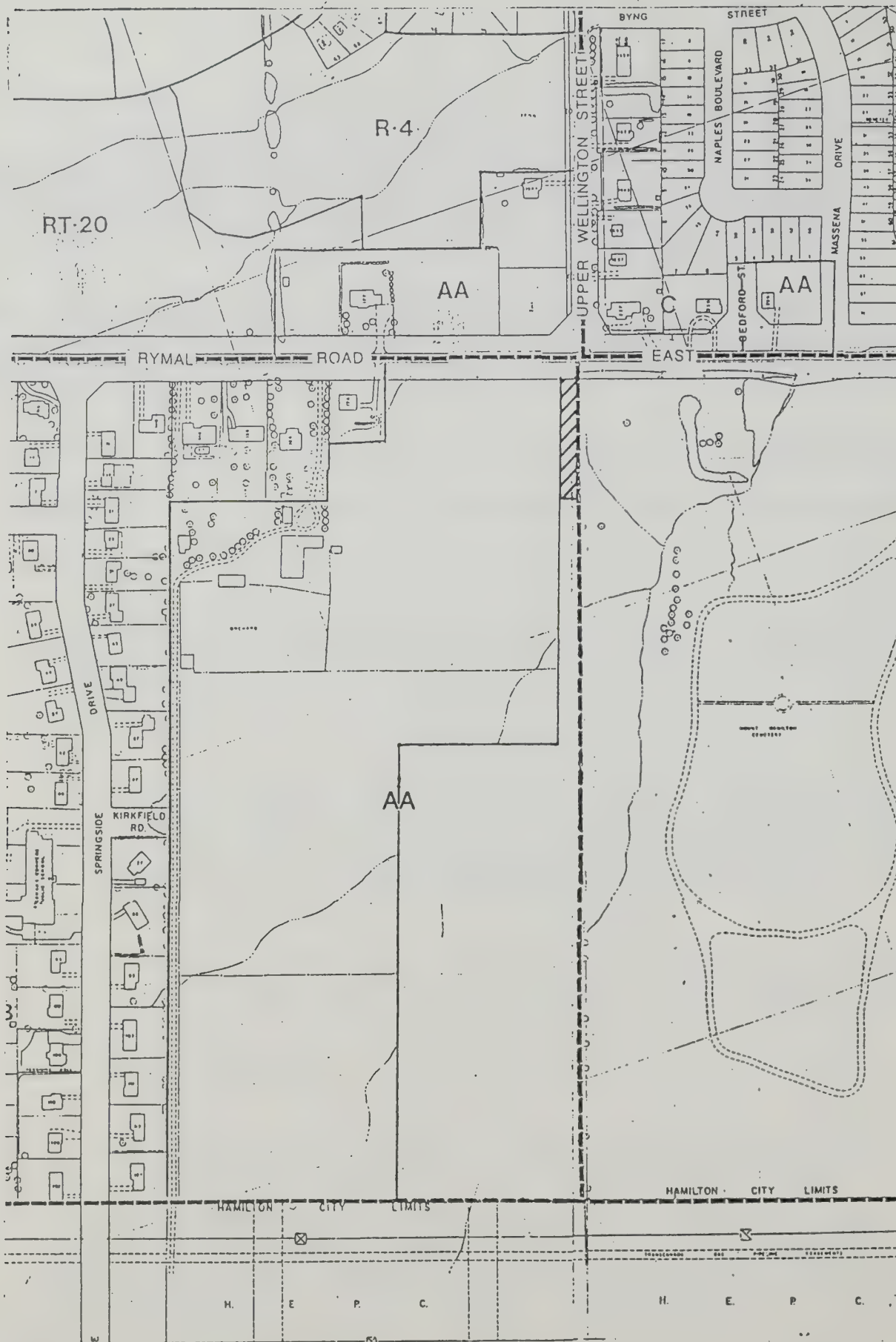
5. For the information of the Planning and Development Committee, matters concerning the dedication of daylight triangles at the southwest corner of Rymal Road and Upper Wellington Street, the recovery of servicing costs, etc., were conditions of approval of the land severance application.
6. The requested "DE-3" (Multiple Dwellings) District zoning is subject to Site Plan Control By-law 79-275, as amended by By-law 87-223. Matters such as parking, loading, access, grading, landscaping, etc. will be dealt with at the site plan control stage of development.

***CONCLUSION:***

On the basis of the foregoing, the City Initiative can be supported.

GAW/ma  
CI92C

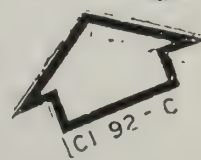




### Legend



Proposed Change in Zoning From "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District

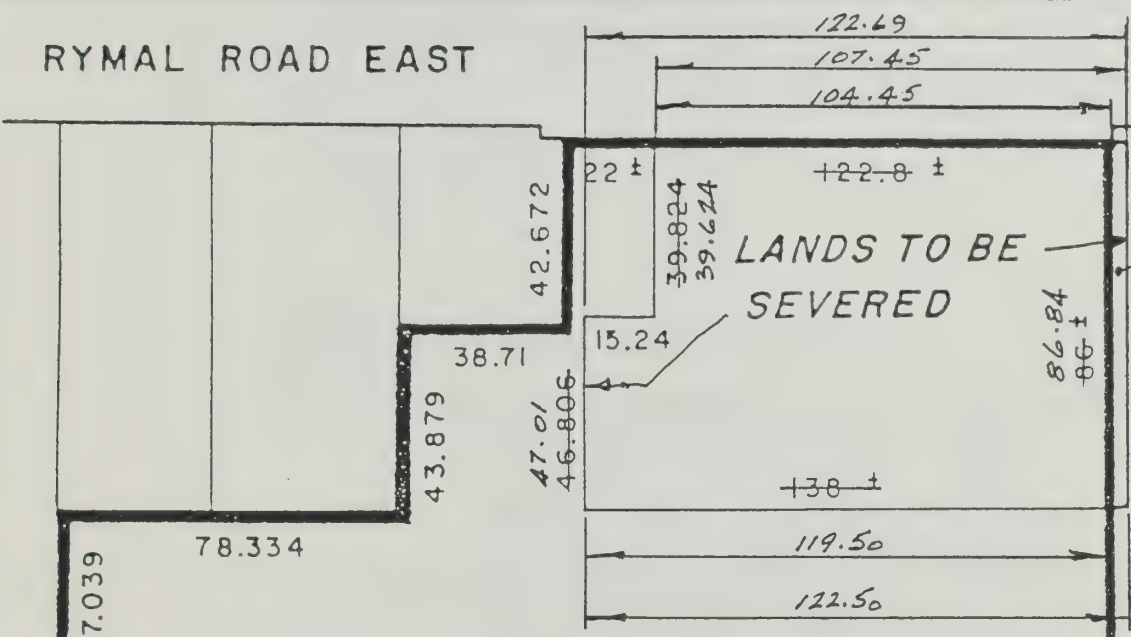


ICI 92-C

ADDENDUM

UPPER  
WELLINGTON

RYMAL ROAD EAST

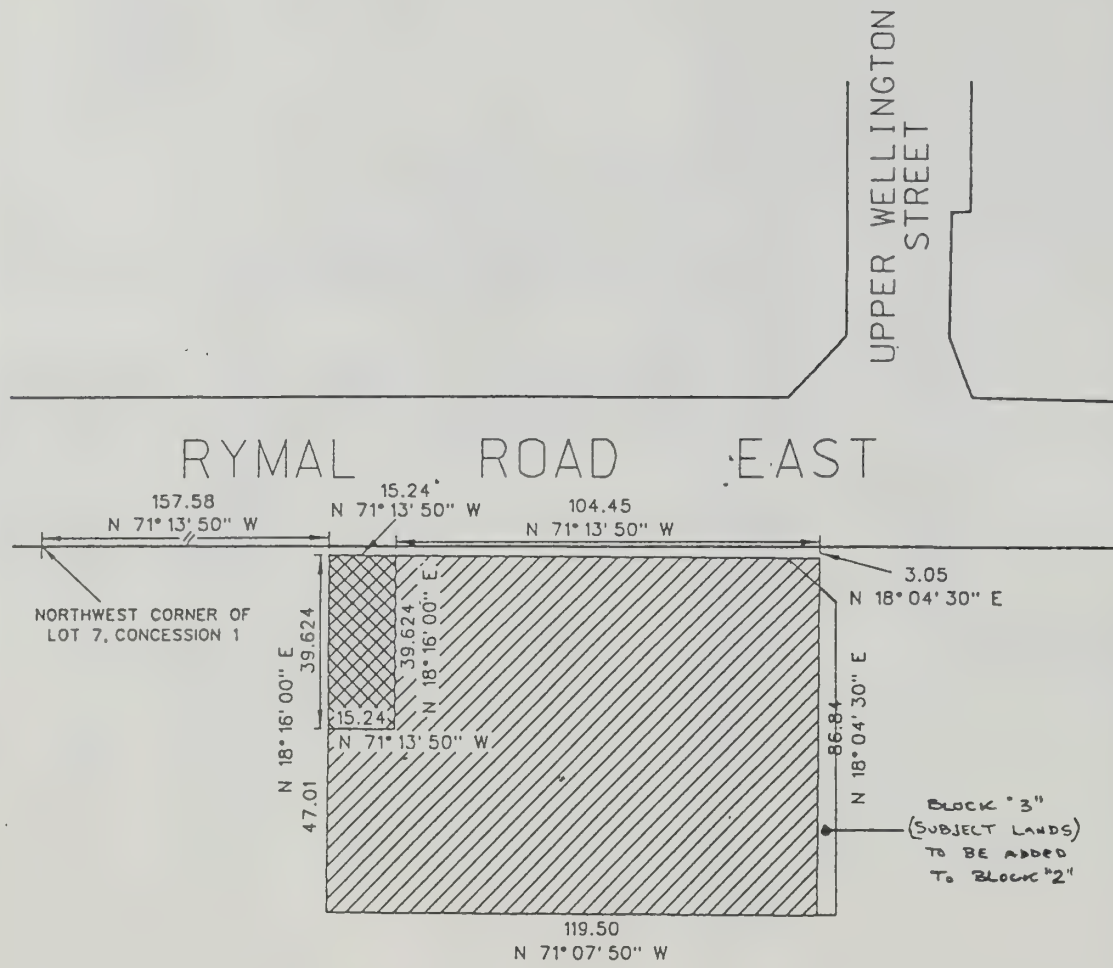


LANDS TO BE  
SEVERED

(C1 92.1,  
REGIONALLY  
OWNED LANDS  
TO BE REZONED  
FROM "AA" AGRICULTURAL DISTRICT  
TO "DE-3" (MULTIPLE DWELLING)  
DISTRICT, MODIFIED

LANDS TO BE  
RETAINED  
9.8 Ha ±

H.S.R. LANDS



NOTE: All dimensions are in metres

This is Schedule "A" to By-Law No. 92-\_\_\_\_  
 Passed the \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
 Clerk

\_\_\_\_\_  
 Mayor

**City of Hamilton**  
**Schedule A**  
 Map Forming Part of  
 By-Law No. 92-\_\_\_\_\_  
 to Amend By-Law No. 6593

Regional Municipality of Hamilton-Wentworth  
 Planning and Development Department

**Legend**  
 Change in zoning from "AA" (Agricultural) District to:  
 BLOCK 1 "C" (Urban Protected Residential, etc.) District  
 BLOCK 2 "DE-3" (Multiple Dwellings) District, modified

North



Scale  
 NOT TO SCALE

Reference File No.  
 ZA-91-76

Date  
 AUGUST, 1992

Drawn By  
 H.V.



"Copy sent to V. Abraham, Director of Local Planning, Planning Department, P. Noe Johnson, City Solicitor, Law Department, M. Main, Director of Traffic Services, Traffic Department and Alderman D. Drury, Chairperson, Planning and Development Committee - 1992 September 10"



**TransCanada PipeLines**

TRANSCANADA PIPELINES TOWER, 111 - FIFTH AVENUE S.W.  
P.O. BOX 1000, STATION M, CALGARY, ALBERTA T2P 4K5

(403) 267-6100

August 31, 1992

RECEIVED

SEP 08 1992

CITY CLERKS

Secretary  
Planning and Development Committee  
City Hall  
Hamilton, Ontario L8N 3T4

Dear Sir/Madam:

**Re: Public Meeting to Consider City-Initiative 92-C**  
**Location: 240 Rymal Road**

On August 31, 1992 we received your notice informing us of the public meeting to discuss the above application.

This application pertains to land which is located over 200 metres away from the pipeline, therefore we have no objections or comments with regards to this application.

Thank you for keeping us informed of development near our pipeline facilities.

Yours truly,

Janice Lattin  
Technician 1  
Right-of-Way



9.

**CITY OF HAMILTON**

**- RECOMMENDATION -**

**RECEIVED**

SEP 17 1992

CITY CLERKS

**DATE:** 1992 September 16  
ZA-92-20  
Durand Neighbourhood

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Request for a modification in zoning - No. 173 Bold Street  
and No. 20 Wheeler Place.

**RECOMMENDATION:**

That approval be given to Zoning Application 92-20, David K. Lord and Eileen R. Booty, owners, for a modification to the established "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations, to permit the creation of separate lots for the existing two-family dwelling at No. 173 Bold Street (Block "1"), and the existing semi-detached dwelling at No. 20 Wheeler Place (Block "2"), as shown on the attached map marked as Appendix "A", on the following basis:

- i) That the "E" (Multiple Dwellings, Lodges Clubs, etc.) District regulations as contained in Section 11 of Zoning By-law No. 6593, applicable to Block "1", be modified to include the following variances as special requirements:
  - a) That notwithstanding Section 11(1) of Zoning By-law No. 6593, only a two-family dwelling shall be permitted within the building existing at the date of passing of this By-law;
  - b) That notwithstanding Section 11(3) of Zoning By-law No. 6593, the yards existing at the date of passing of this by-law shall apply to the existing two-family dwelling;
  - c) That notwithstanding Section 11(4) of Zoning By-law No. 6593, a lot width of at least 7.53 m and a lot area of at least 204.45 m<sup>2</sup> shall be required;



- d) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, a minimum of two parking spaces shall be provided and maintained on the lot within the required front yard for the existing two-family dwelling;
  - f) That Section 18A(9) of Zoning By-law No. 6593 shall not apply.
- ii) That the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11 of Zoning By-law No. 6593, applicable to Block "2", be modified to include the following variances as special requirements:
- a) That notwithstanding Section 4.(3)(b) of Zoning By-law No. 6593, a single-family dwelling shall be permitted to front onto a public highway (Wheeler Place) having a width of at least 3.66 m;
  - b) That notwithstanding Section 11(1) of Zoning By-law No. 6593, only a single-family dwelling shall be permitted;
  - c) That notwithstanding Section 11(3) of Zoning By-law No. 6593, the yards existing at the date of passing of this By-law shall apply to the existing single-family dwelling;
  - d) That notwithstanding Section 11(4) of Zoning By-law No. 6593, a lot width of at least 7.33 m and a lot area of at least 163.30 m<sup>2</sup> shall be required;
  - e) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, a minimum of one parking space shall be provided and maintained on the lot.
  - f) That Section 18A(9) of Zoning By-law No. 6593 shall not apply.
- iii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map W-5 be notated S- ;
- iv) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-5 for presentation to City Council;
- v) That the proposed modification in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

***EXPLANATORY NOTE:***

The purpose of the by-law is to provide for modifications to the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations to permit the creation of separate lots for the existing two-family dwelling at No. 173 Bold Street (Block "1") and the existing semi-detached dwelling at No. 20 Wheeler Place (Block "2"), as shown on the attached map marked as Appendix "A", on the following basis:

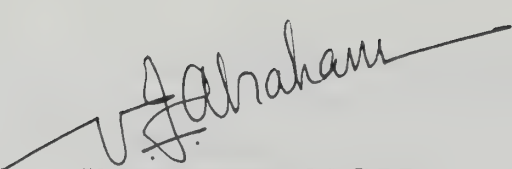
**Block "1"**

- To permit only a two-family dwelling within the building existing at the date of passing of this by-law;
- To permit the yards existing at the date of passing of this by-law to apply to the existing two-family dwelling;
- To permit a lot width of at least 7.53 m and a lot area of at least 204.45 m<sup>2</sup>, whereas a lot width of at least 12.0 m and a lot area of at least 360.0 m<sup>2</sup> are required;
- To require a minimum of two parking spaces to be provided and maintained on the lot within the required front yard for the existing two-family dwelling;
- To permit the required manoeuvring space to be located off-site.

**Block "2"**

- To permit a single-family dwelling to front onto a public highway (Wheeler Place) having a width of at least 3.66 m, which is otherwise prohibited by the Zoning By-law;
- To permit only a single-family dwelling on the subject lands;
- To permit the yards existing at the date of passing of this By-law to apply to the existing single-family dwelling;
- To permit a lot width of at least 7.33 m and a lot area of at least 156.60 m<sup>2</sup>, whereas a lot width of at least 12.0 m and a lot area of at least 360.0 m<sup>2</sup> are required;
- To require a minimum of one parking space to be provided and maintained on the lot;
- To permit the required manoeuvring space to be located off-site.

J.D. Thoms, M.C.I.P.  
Commissioner  
Planning and Development Department



V.J. Abraham, M.C.I.P.  
Director of Local Planning

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

- Proposal

The purpose of the proposed modification in zoning is to permit the creation of separate lots for the existing two-family dwelling at No. 173 Bold Street and the existing semi-detached dwelling at 20 Wheeler Place.

- Land Severance Application

On March 27, 1990, the Regional Land Division Committee approved Land Severance Application H-67-89 to convey a parcel of land measuring 24.08' x 70.0' which is occupied by one half of a semi-detached dwelling (20 Wheeler Place), and to retain the balance of the holding measuring 24.47' x 92.94' which is occupied by a single-family dwelling (173 Bold Street). One of the conditions of approval of the land severance application was that the applicant receive final approval of the necessary by-law variances.

It should be noted that land severance approval has lapsed, and that the applicant would have to reapply to the Regional Land Division Committee to sever the subject property into two lots.

- Committee of Adjustment Applications

A-90-170

On June 27, 1990, the Committee of Adjustment denied Minor Variance Application A-170-90 to permit:

- a) the existing single-family dwelling number 173 Bold Street to be maintained on a lot having an area of at least 211.25 m<sup>2</sup> (2,274.0 sq. ft.) instead of 360.0 m<sup>2</sup> (3,875.13 sq. ft.);



- b) the existing single-family dwelling number 20 Wheeler Place to be maintained upon a lot having an area of at least 156.62 m<sup>2</sup> (1,686.0 sq.ft.) instead of 360.0 m<sup>2</sup> (3,875.13 sq. ft.).

The Committee of Adjustment denied the application for the following reasons:

- the relief requested is beyond that of a minor nature;
- the relief requested herein is undesirable for the appropriate development of the land and building(s); and,
- it is inconsistent with the general intent and purpose of the By-law and of the Official Plan.

#### Ontario Municipal Board Appeal

The applicant's filed an appeal with the Ontario Municipal Board from the decision of the Committee of Adjustment concerning minor variance application A-170-90. The Ontario Municipal Board Hearing was scheduled for August 22, 1991 at 2:00 P.M. Prior to the hearing, the applicant's wrote to the Ontario Municipal Board to advise that they wished to withdraw their appeal.

#### A-90-278

On October 31, 1990, the Committee of Adjustment denied Minor Variance Application A-278-90 to permit:

- a) the existing single-family dwelling number 173 Bold Street to be maintained on a lot having an area of at least 211.25 m<sup>2</sup> (2,274.0 sq. ft.) instead of 360.0 m<sup>2</sup> (3,875.13 sq. ft.);
- b) the existing single-family dwelling number 20 Wheeler Place to be maintained upon a lot having an area of at least 156.62 m<sup>2</sup> (1,686.0 sq.ft.) instead of 360.0 m<sup>2</sup> (3,875.13 sq. ft.) and also with a rear yard depth of at least 6.98 m (22.91' instead of 7.5 m (24.61'));
- c) the dwelling number 20 Wheeler Place to continue to be maintained upon a public highway having a width of less than 12. m (39.37').

#### A-91-106

On May 29, 1991, the Committee of Adjustment approved Minor Variance Application A-91-106 to permit the establishment of a converted two-family dwelling use for the dwelling at number 173 Bold Street notwithstanding the following by-law variances:

- a) one of the dwelling units has a floor area of at least 61.3 m<sup>2</sup> (660.0 sq. ft.) instead of 65.0 m<sup>2</sup> (699.68 sq. ft.);
- b) the by-law prohibits two residential buildings on the same lot;
- c) there is no provision on the lot for 4 required off-street car parking spaces.

As a condition of approval, the applicant was required to enter into a boulevard parking agreement to establish parking for two cars at the front of the dwelling.

***APPLICANT'S:***

David K. Lord and Eileen R. Booty, owners.

***LOT SIZE AND AREA:***

- 7.46 m (24.47') of lot frontage on Bold Street;
- 49.68 m (162.94') of lot depth; and,
- 370.40 m<sup>2</sup> (3,987.14 sq. ft.) of lot area.

***LAND USE AND ZONING:***

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	two-family dwelling and one half of a semi-detached dwelling	"E" (Multiple Dwellings, Lodges, Clubs, etc.) District
<u>Surrounding Lands</u>		
to the north	apartment building	"E-3" (High Density Multiple Dwellings) District, modified
to the south	single-family and two-family dwellings	"DE-3" (Multiple Dwellings) District
to the east	apartment building	"E" (Multiple Dwellings, Lodges, Clubs, etc.) District

to the west

single-family, two-family,  
three-family dwellings  
and apartments

"E" (Multiple  
Dwellings, Lodges,  
Clubs, etc.) District

**OFFICIAL PLAN:**

The subject lands are designated "RESIDENTIAL" on Schedule "A"- Land Use Concept, and are located within "SPECIAL POLICY AREA 3" on Schedule "B" SPECIAL POLICY AREAS of the Official Plan. The following policies among others, would apply:

- "2.1.1      The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
  
- 2.1.8      It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.
  
- 2.9.3.1    The future viability and health of the Central Policy Area will be largely dependent on the quality and suitability of Residential opportunities in close proximity to the downtown. Accordingly, the following policies to promote and protect housing within the area shown as SPECIAL POLICY AREA 3 on Schedule "B" will apply in addition to all the Residential policies of Subsections A.2.1 and C.7, and Policy A.2.8.1(ii); (O.P.A. No. 27)
  - i)      It is the intent of Council to strengthen the Residential function of this AREA to complement the multi-use nature of the Central Policy Area, to foster a wider choice in housing opportunities for all residents of the City, and to increase the resident population;
  
  - ii)     Further to the above, a wide variety of densities, unit sizes, building styles, incomes and household groups will be accommodated. Housing suitable for families, the physically disabled, and senior citizens will be particularly encouraged;
  
  - v)      It is intended that Residential development or redevelopment be at a scale, density and bulk compatible with the established character of the surrounding uses;



3.4.1 In accordance with the intent of the Regional Official Plan, consents to sever individual parcels of land within the City will generally be discouraged and limited in accordance with the following provisions:

- i) Severances to create new lots where adequate municipal sewer and water services are not available will be discouraged; (O.P.A. No. 5)
- ii) Severances will be discouraged which do not comply with the Development and Servicing Extension policies of Subsection B.1 and the severance policies of the Regional Official Plan; and, (O.P.A. No. 22)
- iii) Severances will be discouraged where such severance would make it difficult to assemble adequate parcels of land which would permit planned development.

7.3 Council will ensure that the local RESIDENTIAL ENVIRONMENT is of a condition and variety satisfactory to meet the changing needs of area residents. Accordingly, Council will:

- iii) Encourage RESIDENTIAL development that provides a range of types and tenure to satisfy the needs of the residents at densities and scales compatible with the established development pattern."

The proposal would not conflict with the intent of the Official Plan.

***NEIGHBOURHOOD PLAN:***

The subject lands are designated "MEDIUM DENSITY APARTMENTS" on the approved Durand Neighbourhood Plan. The proposal would not conflict with the intent of the approved Plan.

***COMMENTS RECEIVED:***

- The Building Department has advised that:

" 173 Bold Street

- 1. A minimum lot area of 360 m<sup>2</sup> is required.
- 2. A minimum of two (2) parking spaces is required to be provided on the lot for the existing two family dwelling.

20 Wheeler Place

1. A minimum lot area of 360 m<sup>2</sup> is required.
  2. A minimum rear yard of 7.5 m is required.
  3. One parking and manoeuvring space shall be provided on the lot for the existing single family dwelling.
  4. The lot does abut upon a public highway of a width of at least 12.0 m. Refer to Section 4.(3)(b) of Zoning By-law 6593."
- The Hamilton Wentworth - Roads Department has advised that:  
  
 "There are public watermains and combined storm and sanitary sewers on Bold Street to service these lands. As the applicant is aware, the lands shown as Number 20 Wheeler Place will only have frontage Wheeler Place, which is a 3.66 m wide public assumed alley. Therefore, the applicant should be advised of a possible future road widening to widen this alley as much as possible to proper municipal standards.  
  
 Any works which may occur within the Wheeler Place or Bold Street road allowances must conform to the City of Hamilton Streets By-law.  
  
 The Traffic Department is to comment on access and access design."
  - Heritage Planning has advised that:  
  
 "Heritage Planning has no objections to severance, provided house at 173 Bold St. is preserved."
  - The Traffic Department and Hamilton Region Conservation Authority has no comments or objections.

**COMMENTS:**

1. The proposal does not conflict with the intent of the Official Plan.
2. The proposal complies with the intent of the approved Durand Neighbourhood Plan.
3. The proposal has merit and can be supported for the following reasons:
  - The dwellings in question were established on this basis many years ago and appear to have existed harmoniously within the neighbourhood, and it is highly unlikely that these dwellings will be removed as they are considered legal non-

conforming uses. In this regard, Section 3(2c) of the Zoning By-law would permit legally established non-conforming single-family dwellings, two-family dwellings and accessory buildings or structures to be restored or reconstructed, provided that there is no increase in height or area or the volume or change in use of the building or structure. On this basis these uses could continue indefinitely.

- The proposed lots and dwellings would not be out of character with those already established in this area. In this regard, three of the seven dwellings located on Wheeler Place (No.s 23, 25 and 27) have already been severed from lots fronting onto Duke Street, and therefore, approval of this application is no less feasible.
  - Wheeler Place is a paved 3.66 m wide public assumed alley that is maintained by the City, and the seven dwellings fronting onto it all have municipal services.
  - The likelihood of assembly and redevelopment of the lands within this block appears quite remote because of the number of small holdings involved.
4. Approval of the application would involve the following by-law variances as special requirements:

Block "1"

- To eliminate the potential of further conversions the amending By-law should permit only a two-family dwelling within the building existing at the date of passing of this by-law; (Section 11(1));
- To eliminate the potential for future building additions the amending By-law should permit the yards existing at the date of passing of this by-law to apply to the existing two-family dwelling; (Section 11(3));
- To permit a minimum lot width of 7.53 m and a minimum lot area of 204.45 m<sup>2</sup>, whereas a minimum lot width of 12.0 m and a minimum lot area of 360.0 m<sup>2</sup> is required (Section 11(4)). As approval of the land severance application has lapsed, the applicant will have to reapply to the Regional Land Division Committee to sever the lots. In this regard, the minimum rear yard setback requirement of 7.5 m should be provided and maintained for the buildings located on Blocks "1" and "2". The minimum lot area noted above takes this rear yard setback into consideration;
- To require a minimum of two parking spaces to be provided and maintained on the lot within the required front yard for the existing two-family dwelling; (Section 18A(7));



- To permit the required manoeuvring space to be located off-site (Section 18A(9)).

Block "2"

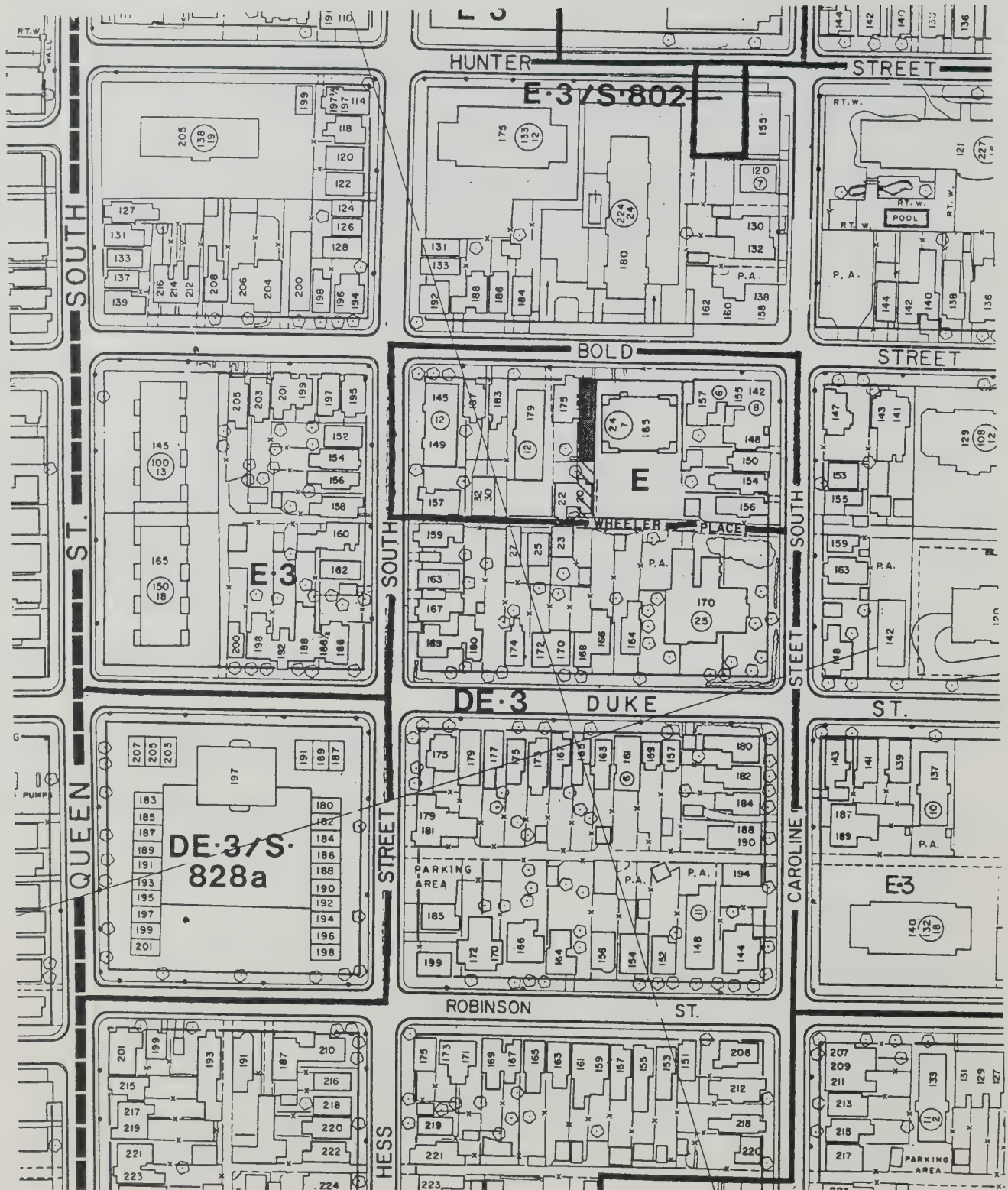
- To permit a single-family dwelling to front onto a public highway (Wheeler Place) having a width of at least 3.66 m, which is otherwise prohibited by the Zoning By-law (Section 11(1));
- To permit only a single-family dwelling on the subject lands (Section 11(1));
- To permit the yards existing at the date of passing of this By-law to apply to the existing single-family dwelling (Section 11(4));
- To permit a minimum lot width of 7.33 m and a minimum lot area of 156.60 m<sup>2</sup>, whereas a minimum lot width of 12.0 m and a minimum lot area of 360.0 m<sup>2</sup> is required (Section 11(4)). As noted above, a minimum rear yard setback of 7.5 m is required to be provided and maintained for the buildings situated on Blocks "1" and "2", and this should be taken into consideration at the land severance approval stage. The minimum lot area noted above includes this change;
- To require a minimum of one parking space to be provided and maintained on the lot (Section 18A(7));
- To permit the required manoeuvring space to be located off-site (Section 18A(9)).

With the exception of the minimum lot areas noted above, all of the variances reflect the existing use of the lands and can be supported.

**CONCLUSION:**

On the basis of the foregoing, the application can be supported.

GAW/ma  
ZA9220



### Legend

Block "1"



Block "2"



Proposed modification to the "E"

(Multiple Dwellings, Lodges, Clubs, Etc.) District regulations.

ZA-92-20



SEP 08 1992

Sept 8. 1992. 9a)

ZA92-20

Planning and Development Committee  
City Hall.

SEP 08 1992

Dear Sirs:

I Received your letter concerning the proposed change at 173 Bold St. and on the same lot at the back alley the old shack on 20 Wheeler Place.

First of all I beleive any lot less than 5000. SQ FT. shouldn't be allowed to be divided for home use. Secondly this area is the most densely populated area in the whole city, and the parking problem is so bad that many times people park their cars in on our driveway for 10-20 minutes. the police could probably confirm the parking problem. These back alley buildings have been build for small shops or fair size garages, then later converted to living quarters. You can see quit a few of them all over the city In my opinion these buildings should either be demolished or converted to garages and that would ease the parking problem. I do not believe that anybody should live on back alleys.

The city development community should work to solve our density and parking problems not to create more.

Thanking you for the opportunity.  
yours truly. Joseph Vamori  
56 East Avenue North. 281-5H5.







group inc.

September 1, 1992

The Corporation of  
The City of Hamilton  
City Hall  
71 Main Street West  
Hamilton, Ontario  
L8N 3T4

Attention: Planning Dept

Dear Sirs:

Re: Property : 173 Bold Street & No. 20 Wheeler Place  
File No. : ZA-92-20

In reference to the Notice of Modification to the established "E" District regulations, we wish to advise that we are returning the Notification Card to you, to advise that we have searched our sources here and checked with the Municipal Tax Office and confirm that we have no interest in the properties noted above.

The Tax Office has confirmed that the Roll Number for 173 Bold Street is 020-133-50430 and is administered by the Royal Trust Company.

In this regard, we have not made a notation as to the modification and would request that you forward this on to Royal Trust.

Yours very truly

EDGECOMBE GROUP INC.

Jim C. Taylor  
Manager  
Portfolio Servicing

JCT/ar  
Encl

Real Estate Asset Management  
Property Management  
Development  
Property & Environmental Consulting  
Mortgage Servicing  
Mortgage Investment

**TRAINING & DEVELOPMENT  
L & ENVIRONMENTAL CONSULTING  
PLANNING BRANCH**

SEP<sup>th</sup> 03 1992

VANCOUVER CALGARY TORONTO  
MONTREAL HALIFAX

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**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

- Proposal

The applicant is proposing to rezone the subject lands from "C" (Urban Protected Residential, etc.) District to "RT-20" (Townhouse - Maisonette) District to permit the development of six townhouses and a "community centre" in conjunction with a twenty-six unit non-profit townhouse development presently under construction to the east.

- Zoning Application 90-32

The subject lands were part of a larger proposal, which also included 837, 845 and 867 Rymal Road East (see APPENDIX "B" attached), to rezone the subject lands from "C" (Urban Protected Residential, etc.) District to "RT-20" (Townhouse - Maisonette) District. On April 24, 1991, the Planning and Development Committee recommended denial to rezone the subject lands. This recommendation was upheld by City Council at their meeting of April 30, 1991.

- Site Plan Application DA-91-63

On May 12, 1992, Planning and Development Committee approved DA-91-63 for a twenty-six unit townhouse development for the adjacent lands to the east being developed by Hamilton East Kiwanis Non-Profit Inc.

**APPLICANT:**

483466 Ontario Limited (Jermome Calzonetti), owner.



**LOT SIZE AND AREA:**

The subject lands have:

- a frontage of 28.56 m (93.7 feet) on Rymal Road;
- a depth of 42.67 m (139.99 feet); and,
- a lot area of 1218.65 m<sup>2</sup> (13,117.06 square feet).

**LAND USE AND ZONING:**

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	Vacant single family dwelling	"C" (Urban Protected Residential, etc.) District
<u>Surrounding Lands</u>		
to the north	Single family dwellings and vacant land	"C" (Urban Protected Residential, etc.) District and "AA" (Agricultural) District
to the south	Vacant land, townhouses, and single family dwellings	"R-4" (Small Lot Single-Family Detached) District, "RT-10" (Townhouse) District and "AA" (Agricultural) District
to the east	Townhouses under construction	"RT-20" (Townhouse - Maisonette) District modified.
to the west	Single family dwellings	"C" (Urban Protected Residential, etc.) District

## OFFICIAL PLAN:

The subject lands are designated "Residential" on Schedule "A" - Land Use Concept of the Official Plan. The following policies apply:

- "A.2.1.1      The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
  
- A.2.1.8      It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.
  
- C.7.1      In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity:
  - i)      Provision and maintenance of adequate off-street parking;
  - ii)      Alteration of traffic flows;
  - iii)      Improvement and maintenance of street landscaping;
  - viii)      Other similar actions or matters as Council may deem appropriate.
  
- C.7.2      Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value.
  
- C.7.3      Council will ensure that the local RESIDENTIAL ENVIRONMENT is of a condition and variety satisfactory to meet the changing needs of area residents. Accordingly, Council will:
  - iii)      Encourage RESIDENTIAL development that provides a range of types and tenure to satisfy the needs of the residents at densities and scales compatible with the established development pattern;"

The proposal complies with the intent of the Official Plan provided policies C.7.1, C.7.2 and C.7.3 are satisfied .

## NEIGHBOURHOOD PLAN:

The subject lands are designated "SINGLE & DOUBLE RESIDENTIAL" in the approved Eleanor Neighbourhood Plan. Approval of this application would necessitate a redesignation to "ATTACHED HOUSING".

## COMMENTS RECEIVED:

- The Hamilton Region Conservation Authority advises they have no objection.
- The Building Department advises:
  - "1. The distance required between buildings "C" & "D" is 3.5m. A revision or variance is required.
  2. Privacy area screens shall be at least 1.2m in height and not more than 2.0m in height. Privacy screens shall be at least 2.5m in depth.
  3. The community centre shown is not a permitted use. A variance will be required if this use is to be incorporated in the development.
  4. This Site Development differs in design (Buildings A, B, C & D) from the development currently under construction and approved under Site Plan Control Application DA-91-63.
  5. For the thirty-two townhouse dwelling units shown, and based on a ratio of 1.5 spaces per unit with no garages contained, the required parking would be 48' parking spaces (No elevations provided).
  6. A demolition permit is required for the dwelling at #829 Rymal Road East.
  7. The maximum height of the acoustic barrier shown along the front property line is 2.0m. A revision or a variance is required."
- The Traffic Department advises:
 

"...please be advised that we have reviewed the above application and find the proposed zoning acceptable subject to the elimination of street townhousing having direct access to Rymal Road.



1. We recommend an increase in the width of the westerly driveway to a minimum of 7.5 metres at this property line to facilitate turning movements.
2. The applicant shows an overhang parking design for the visitor parking area on the site plan which is not allowed by the Zoning By-law requirements. We would support a variance, if necessary, to allow this design.
3. Based on the assumption that the Community Centre will only be used by residents of this site, we find it to be satisfactory. Please inform us if this is not the case.
4. The applicant should be advised that all driveway accesses will be constructed as standard drop curb design versus the design shown. All raised curbing should therefore, be terminated at the property line and the applicant may wish to revise the detail of the design with this in mind.
5. We advise that future channelization of the nearby intersection may restrict access to right turns in and out only."

- The Hamilton-Wentworth Roads Department advises:

"There are public watermains and separate storm and sanitary sewers available to service these lands.

The designated road allowance width of Rymal Road is 36.58m (120 feet). In accordance with this designation Reference Plan 62R-11844 was prepared outlining lands required for road widening purposes. Therefore as a condition of development approval we recommend that Part 7 of Reference Plan 62R-11844 be dedicated to the Region for road widening purposes. (See attached plan).

In the absence of any details shown, we advise that any works which may occur within the Rymal Road road allowance, as widened, must conform to the Region's Road Use By-Law. We recommend that the subject lands be developed through site plan at which time we will submit detailed comments on site, landscaping, grading plans etc.

The Traffic Department is to comment on access and access design. The grade of the road allowance, as widened, must be +/- 0.14m higher than the centre line of Rymal Road to ensure that the development of these lands is compatible with the existing and future road grades on Rymal Road.

The subject lands are designated for single and double family residential on the proposed Eleanor Avenue Neighbourhood Plan. Therefore, the neighbourhood plan should be revised should this rezoning be approved."

#### COMMENTS:

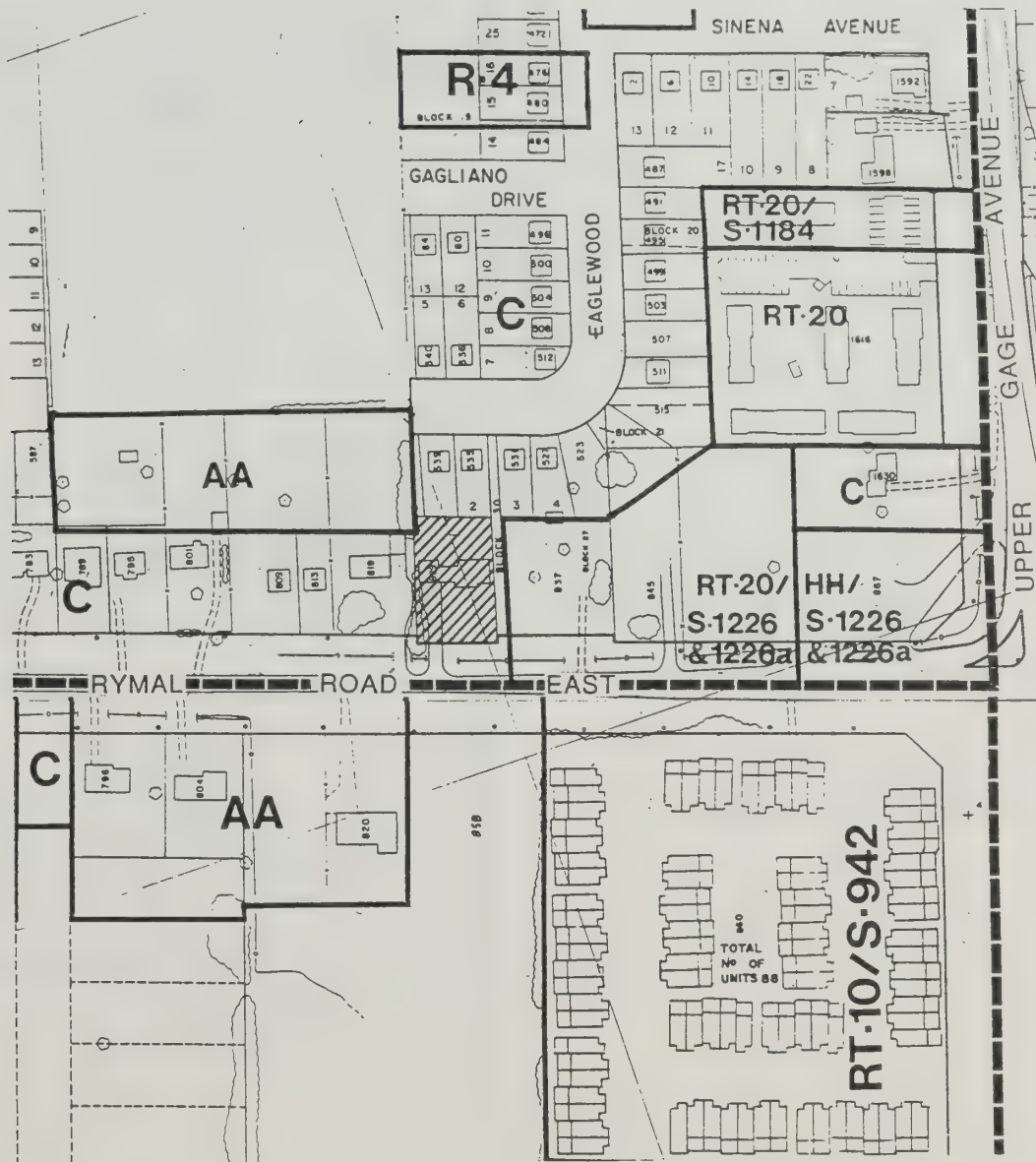
1. The proposal complies with the intent of the Official Plan.
2. The proposal is contrary to the approved Eleanor Neighbourhood Plan which designates the subject lands for "SINGLE & DOUBLE RESIDENTIAL". Approval of the application would require a Neighbourhood Plan amendment to redesignate the subject lands "ATTACHED HOUSING".
3. Although the Department supports the concept of affordable housing, the proposal to rezone the subject lands to permit six townhouses and a community centre in conjunction with the adjacent lands to the east, cannot be supported for the following reasons:
  - it is contrary to the approved Neighbourhood Plan which designates the subject lands "SINGLE & DOUBLE RESIDENTIAL". In this regard, the subject lands are of a sufficient size to be developed in accordance with the Neighbourhood Plan which would be a logical extension of the existing development to the west;
  - it represents an undesirable intrusion of townhouses into areas zoned "C" (Urban Protected Residential, etc.) District and designated "SINGLE & DOUBLE RESIDENTIAL" in the approved Neighbourhood Plan; and,
  - it conflicts with the position of City Council, adopted April 30, 1991, to deny ZA-90-32 respecting townhouse development on the subject lands.
4. For the information of the Committee, the Building Department advises that a "community centre" is not a permitted use in the "RT-20" (Townhouse - Maisonette) District. Approval of this application will necessitate a variance to the by-law to permit this use. Further, on the basis of the preliminary site plan, a number of variances may be required for the adjacent lands to the east, which are inconsistent with the approved Site Plan (DA-91-63). In this regard, should the application be approved, further variances may be required as a result of the Site Plan approval for the subject lands.

**CONCLUSION:**

Based on the foregoing, the proposal cannot be supported.

CF/  
ZA9227

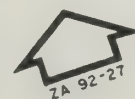




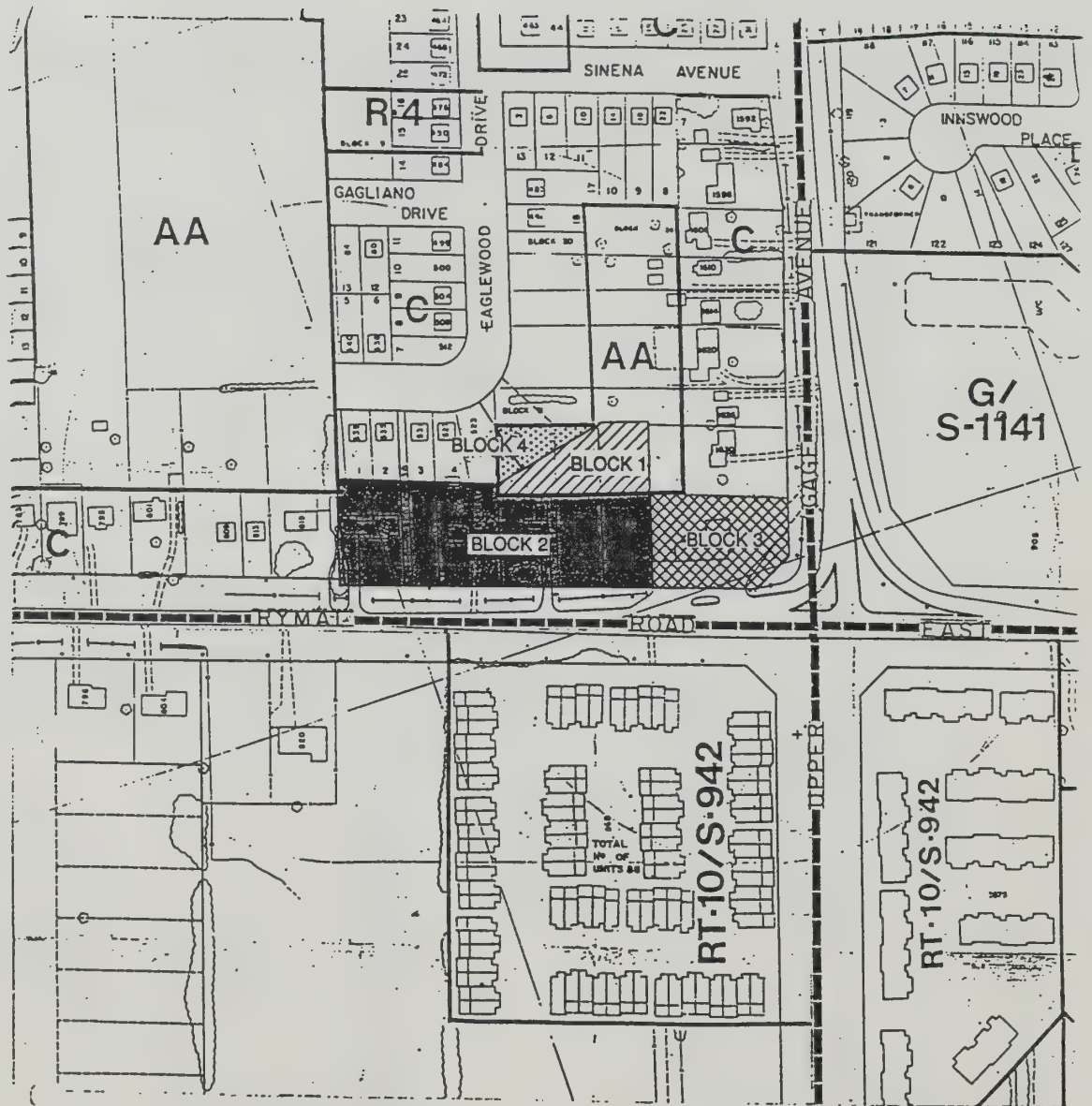
Legend



Site of the Application







APPENDIX A



### Legend

Proposed change in zoning from:

- |         |                                                                                     |                                                                                                                             |
|---------|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| BLOCK 1 |  | "AA" (Agricultural) District to "RT-20" (Townhouse-Maisonette) District.                                                    |
| BLOCK 2 |  | "C" (Urban Protected Residential, etc.) District to "RT-20" (Townhouse-Maisonette) District.                                |
| BLOCK 3 |  | "C" (Urban Protected Residential, etc.) District to "HH" (Restricted Community Shopping and Commercial) District, Modified. |
| BLOCK 4 |  | "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District.                                           |

APPENDIX B

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

11

**DATE:** 1992 September 15  
(P5-2-85)

RECEIVED

SEP 16 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

CITY CLERKS

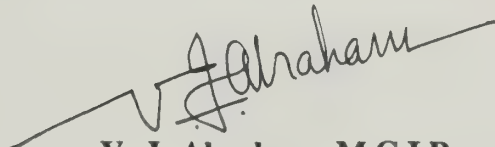
**FROM:** Mr. J. D. Thoms, M.C.I.P.  
Commissioner  
Planning and Development Department

**SUBJECT:** Janet Court Walkway Closure, Kentley Neighbourhood

**RECOMMENDATION:**

That the designated walkway between Nos. 71 and 75 Janet Court remain on the approved Kentley Neighbourhood Plan.

**J. D. Thoms, M.C.I.P.**  
Commissioner  
Planning and Development Department

  
**V. J. Abraham, M.C.I.P.**  
Director of Local Planning

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

On July 22, 1992 the Planning and Development Committee authorized a public meeting to review the potential closure of the walkway between 71 and 75 Janet Court in the Kentley Neighbourhood (see Maps 1 and 2).

The walkway has been designated in the Kentley Neighbourhood Plan since it was approved in 1987, as part of a revision to the approved Neighbourhood Plan. The walkway provides a link for residents of Janet Court to Eastgate Court and Centennial Parkway. In addition, it will provide a more direct access west to Kenora Avenue and Barton Street for the existing and future residents of Eastgate Court.



While the walkway is constructed between 71 and 75 Janet Court, it has not been completed on the Eastgate Court portion and remains unopened as a fence has been erected at the eastern end of the walkway. However, residents of the area have noticed both children and adults climbing the fence to access Janet Court (from Eastgate Square) and to access Eastgate Court (from Janet Court).

In addition, within the walkway right-of-way is located a storm sewer catch basin and connection which must be maintained whether the walkway remains open or is closed. The Environmental Services Group has advised that if the walkway is closed, a maintenance easement will be required in order to access the catch basin for maintenance and repair purposes.

### ***PUBLIC MEETING:***

A public meeting to consider the requested deletion of the walkway from the approved Kentley Neighbourhood Plan was held on September 10, 1992. In attendance were the two Ward Aldermen, nine area residents, and staff from the Planning and Development Department. Residents opinions on the walkway were split.

Some residents generally favoured the deletion of the walkway for the following reasons:

- it has never been opened and, therefore, residents have not become accustomed to the walkway as a pedestrian route;
- there have been problems with noise and loitering in the completed portion of the walkway;
- it is not a primary pedestrian route in the area as generally people are walking north and south; and,
- there is concern that patrons of the hotel and taverns on Centennial Parkway will use the walkway to access Janet and Talia Courts. The residents are concerned about vandalism to their homes due to access from the walkway.

In addition to the above, three written submissions were received and all were in favour of closing the walkway.

Other residents supported the walkway remaining in the neighbourhood plan and the opening of the walkway, for the following reasons:

- it is already used as a pedestrian route currently and those wishing to access Eastgate Court from Janet Court (and vice-versa) climb the fence to do so;
- the walkway has been shown on the approved Neighbourhood Plan since 1987 and in some cases landowners purchased their homes with the walkway as a desirable feature;
- the walkway will provide a safer pedestrian route than the alternative streets (Village Road, Kenora Avenue, Centennial Parkway, Barton Street); and,
- the walkway provides direct access for children to school bus routes on Centennial Parkway (Cardinal Newman buses) and Kenora and Barton (Sir Isaac Brock buses).

**COMMENTS:**

1. Generally, walkways are designated in Neighbourhood Plans to provide for safe and convenient pedestrian movement. The Janet Court walkway, if closed, would result in existing residents walking up to a maximum additional 655 metres (2,150 feet) to get to Centennial Parkway from Janet Court. Residents of Eastgate Court will either have to walk the additional 655 metres on Village Road and Kenora Avenue or will have to walk along Centennial Parkway and Barton Street to access the northwestern areas of the neighbourhood.

The additional distance and the alternate route is an issue for some residents. Buses for Cardinal Newman School stop on Centennial Parkway while those attending Sir Isaac Brock School are picked up at the corner of Kenora Avenue and Barton Street East. The walkway establishes direct pedestrian routes to local neighbourhood streets, thus permitting children to walk on the less busy streets when travelling to and from the school bus stops. Should the walkway be closed, the students will have to walk on the busier streets (Village Road, Kenora Avenue, Centennial Parkway, and Barton Street).

2. The requested deletion of the walkway from the approved Kentley Neighbourhood Plan cannot be supported for the following reasons:
  - i) the walkway provides a pedestrian link between the eastern and western areas of the neighbourhood;
  - ii) there is a substantial increase in distance to be travelled if the walkway is deleted from the Neighbourhood Plan.
3. If the walkway is deleted from the Kentley Neighbourhood Plan, an application will have to be made to the Roads Department to close the walkway. The decision to close the walkway would be made by the Transport and Environment Committee.

If the walkway is closed, the land should be conveyed to the adjoining landowners and a maintenance agreement easement should be provided.

**CONCLUSION:**

On the basis of the foregoing, the requested deletion of the walkway from the Kentley Neighbourhood Plan cannot be supported.

MLT/dkp/ns  
B:\KENTLEY



Note: This is a GUIDE PLAN only and is subject to change. For details contact the local planning division of the Regional Municipality of Hamilton-Wentworth.

EXISTING POPULATION (1986) 3947

## LAND USE

### RESIDENTIAL

- single & double attached housing
- low density apartments
- medium density apartments
- high density apartments
- commercial and apartments

### COMMERCIAL

- INDUSTRIAL
- CIVIC & INSTITUTIONAL
- PARK & RECREATIONAL
- OPEN SPACE
- UTILITIES

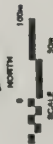
Neighbourhood Boundary

Zoning Boundary

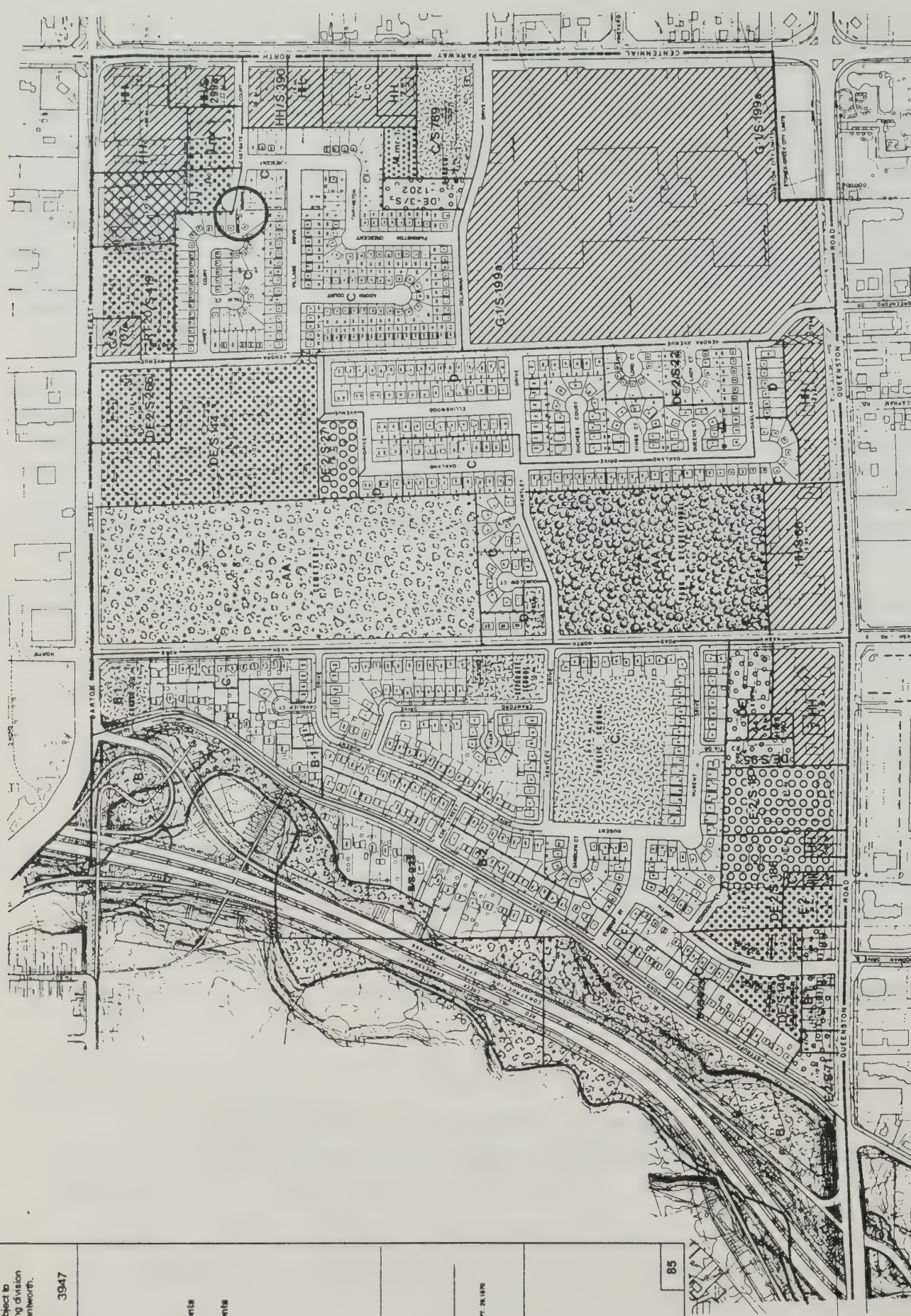
Approved  
Planning Committee JUL 8/87 Council SEP 26/87  
Latest Revision Date NOV. 1/90

CITY OF HAMILTON  
Planning Department

KENTLEY  
APPROVED PLAN



85









12.

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 18 1992

CITY CLERKS

**DATE:** 1992 September 18  
(P5-2-20)

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Carpenter Neighbourhood Plan Amendment - Upper  
Paradise Road Extension

Amendment to the Conditions for draft Plan Approval - Highridge South  
Subdivision

**RECOMMENDATIONS:**

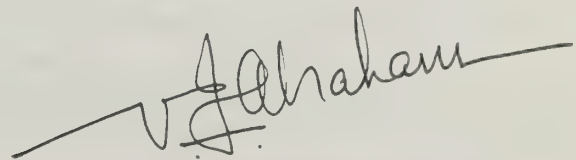
- A. That the approved Carpenter Neighbourhood Plan, as shown on the attached map marked as APPENDIX "A", be amended by:
  - 1) shifting the extension of Upper Paradise Road 54 metres to the east and associated interior road alignments; and,
  - 2) designating the lands previously designed for the road for "Single and Double" housing.
  
- B. That approval be given to the revised Subdivision Application 25T-92002, Brusan Developments, owner, to establish a draft plan of subdivision in the area south of Rymal Road West and east of the City limits, as shown on the attached map marked as APPENDIX "B", subject to the following conditions:
  - 1) That approval apply to the revised plan prepared by Planning Initiatives Ltd., dated May, 1992, showing 238 lots and various blocks, revised in red as follows:
    - i) to provide a 12m sewer easement from Street G to the east limit of the subdivision lands;
    - ii) to provide a walkway between Lots 101 and 102 (Block 257);



- iii) to delete certain reserve blocks and to re-number the remaining blocks;
  - iv) to provide 2 m x 2 m daylighting triangles at the corner of Lots 86, 143 and 203;
  - v) to provide 9 m radius transitional curves at the beginning and end of all street bulbs;
  - vi) to provide street widening adjacent to Rymal Road West to 18.0 m from the centreline (Blocks 255 and 256);
  - vii) to provide an angle on Street C of less than 120 degrees and a centreline radius of the roadway of 30 m or less.
  - viii) to reduce the lot width of Lots 13 and 14 by 2 m.
  - ix) to provide a 5 m by 5 m daylight triangles at lots 8 and 177.
- 2) That the final plan not be approved until such time as municipal sewers, water and adequate road access are available to service the lands.
  - 3) That the streets and walkway be dedicated to the City of Hamilton as public highways and public walkway in the final plan.
  - 4) That the streets be named to the satisfaction of the City of Hamilton and the Regional Municipality of Hamilton-Wentworth.
  - 5) That the final plan conform to the Official Plan and Zoning By-law approved under the Planning Act.
  - 6) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
  - 7) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block and total area of the subdivision in the final plan.
  - 8) That the owner convey Block 239 to the City of Hamilton for park purposes.
  - 9) That Blocks 240 to 248, inclusive, be developed only in conjunction with abutting lands.
  - 10) That any dead-ends or open sides of the road allowances created by the final plan be terminated in 0.3 reserves to be conveyed to the City of Hamilton and be held by the City until required for the future extension of the road allowances or development of abutting lands.

- 11) That the owner satisfy the concerns of the Regional Roads Department with respect to access to Rymal Road West.
  - 12) That the City of Hamilton acquire all the lands necessary for the extension of existing Upper Paradise Road, south of Rymal Road West to provide a street connection to this subdivision and these lands be established and contracted as a public highway.
  - 13) That the owner shall erect a sign in accordance with Section XI of the subsequent subdivision agreement, prior to the issuance of a final release by the City of Hamilton.
  - 14) That the owner agree, in writing, to satisfy all requirements, financial and otherwise, of the City of Hamilton.
- C. That the subdivision agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application, (25T-92002), Brusan Development Corporation, owner, proposed draft plan of subdivision and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.
- D. That the Commissioner of Planning and Development for the Regional Municipality of Hamilton-Wentworth be advised of Council's decision.

**J. D. Thoms, M.C.I.P.**  
Commissioner  
Planning & Development Department



**V. J. Abraham, M.C.I.P.**  
Director  
Local Planning Branch

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

The change in alignment of the Upper Paradise Road extension should result in cost savings to the City in excess of \$500,000.

**BACKGROUND:**

- On April 14, 1989, the original Carpenter Neighbourhood Plan was approved by Council.
- On June 30, 1992, the revised Carpenter Neighbourhood Plan was approved as a result of a planning study undertaken to identify changing land use needs in the neighbourhood.
- In both Neighbourhood Plans, Upper Paradise was shown to be realigned approximately 54 metres (177.17 feet) to the west at Rymal Road. The realignment recognized that there was an existing home at 643 Rymal Road West, which would have had to be expropriated to put the roadway through.
- Subsequent to the approval of the revised plan, 643 Rymal Road West was listed for sale. Since the sale price was considerably less than what was originally estimated the purchase of the property and extension of Upper Paradise Road would result in substantial cost saving for the City (\$500,000).
- As a result, on August 25, 1992, Council approved the purchase of 643 Rymal Road and the southern property in order to realign the road.
- The change in road alignment requires a change to the approved Carpenter Neighbourhood Plan, as well as changes to the conditions of draft approval for the HighRidge South Subdivision.

**COMMENTS RECEIVED:**

- The Traffic Department has advised that:

"We have reviewed the proposed changes and find them generally to be satisfactory. Certainly the alignment of Upper Paradise Road south of Rymal Road will have the immediate benefit of minimizing overall construction costs and avoiding a potentially awkward intersection during an interim phase of development.

We do note, however, a potential conflict with respect to the proposed lots in the area of the previous access. This conflict relates to the approved policies which state that any new lots/developments are to be comparable with existing lots along Rymal Road. The proposal illustrates lots which would only be approximately one quarter of the original lot sizes and would isolate the building/lot located between the old and new neighbourhood access point.

Our only other comment would be that we would prefer that lots located between Rymal Road and Street "B", along the main access road, not take access from the main access when alternatives exist.



• The Roads Department has advised that:

"We have reviewed the plan and advise that:

- 1) The designated road allowance width of Rymal road is 36.0 m. In accordance with designation, we recommend that sufficient lands be dedicated to the Region as shown on the attached plan. At the east limits the road widening is approximately 4.8936 m in width and at the west limits the widening is approximately 6.0 m in width. These road widenings are to be dimensioned and shown on Block 249 as well as lots 16 and 17.
- 2) Any works which may occur within the adjacent road allowances as widened must conform to the respective Streets By-laws.
- 3) The revised plan also indicates that a temporary access will be constructed on Block 249 to Rymal Road. As noted, we have concerns with respect to vehicle access to Rymal Road. Due to sight line restrictions, turning movements etc. on this access will be restricted. As a condition of approval we recommend that the owner satisfy the concerns of the Regional Roads Department with respect to access to Rymal Road.
- 4) As noted in previous comments, all street geometrics must conform to our requirements in our letter dated July 30, 1985 to the Planning Department. The street radii should always be increased wherever possible to improve motorist sight lines through the inside of the horizontal curves.
- 5) City of Hamilton Council on August 25, 1992 approved an option to purchase lands on the south side of Rymal road, directly opposite existing Upper Paradise Road. Should the City be successful in acquiring these lands and lands to the south to provide a street connection into the Carpenter Neighbourhood, Upper Paradise Road, north and south of Rymal Road will not have to be realigned.

As a condition of approval, we recommend that the City of Hamilton acquire all the land necessary for the extension of existing Upper Paradise Road south of Rymal Road to provide a street connection to this subdivision and that these lands be established and constructed as a public highway.

- 6) Detailed construction drawings of the extension of Upper Paradise Road have not been prepared to date. In order to accommodate any shift in realignment we recommend that Lots 13 and 14 be reduced in width by approximately 2 m each.
- 7) Although not shown, all road widths within the subdivision are to be at minimum of 20 m.

- 8) The intersecting angle of the horizontal curve on Street C should not exceed 120 degrees and the centreline radius is not to exceed 30 m. The plan should be revised accordingly.
- 9) We require 9 m radius transition curves into and out of the cul-de-sac bulbs.
- 10) Although not dimensioned, we require 5 m by 5 m daylight triangles at Lots 8 and 177.
- 11) Although not dimensioned, we require 2 m by 2 m daylight triangles at Lots 86, 203 and 143.
- 12) It is desirable that single family development be discouraged along arterial roadways such as Rymal Road. Should this be unavoidable, these new lot sizes are to be comparable to the existing lot sizes. If possible, the plan should be revised accordingly."

#### COMMENTS:

1. Discussions have occurred with the neighbours directly affected by the proposed road realignment:
  - Thomas Sullivan, 635 Rymal Road West;
  - Santo Boffa, 647 Rymal Road West; and,
  - Maria Miceli, 667 Rymal Road West.

There appear to be no major objections to the road realignment from these residents.

In addition, the major landowner, Brusan Development Corporation, affected by the realignment supports the change.

2. Both the Traffic Department and the Roads Department prefer the suggested change in the realignment of the Upper Paradise Road extension south of Rymal Road.

The change in alignment of Upper Paradise will also slightly alter the internal road pattern of the Neighbourhood as proposed in the approved Neighbourhood Plan. Attached is a Map showing the proposed road changes to be undertaking if the realignment occurs. These changes should also be part of the Neighbourhood Plan Amendment in conjunction with the road realignment.

In addition, these road changes would also require changes to the approved 'Highridge South' Draft Plan of Subdivision (application 25T-92002). These changes can be achieved through a revised plan. As such, they will not cause the owners, Brusan Developments, any undue delay.

3. The Traffic Department has indicated they prefer the lots fronting on Rymal Road to provide for an alternative access. Based on a number of design alternatives, the present lotting pattern is a compromise that is satisfactory from both the City perspective as well as the owners' perspective. The lands in question are proposed to be zoned "C" (Urban Protected residential, etc.) District which would allow for 12 m lots whereas the draft plan shows 15 m lots.

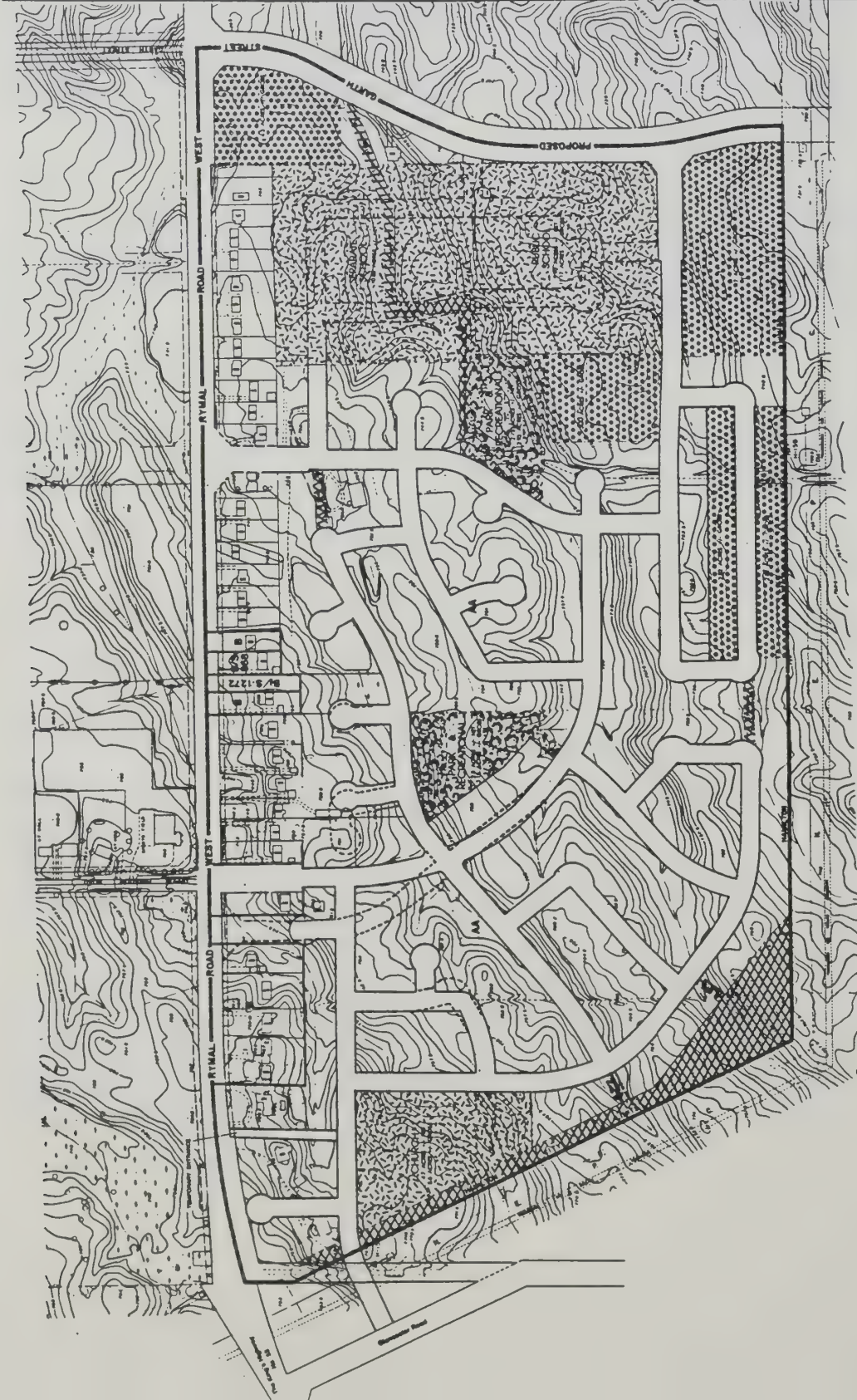
### CONCLUSION:

Based on the above, the proposed amendment to the approved Carpenter neighbourhood Plan and the revised subdivision Plan can be supported.

BJ/JHE:ns/dkp

B:\CARPENTE





City of Vancouver  
Neighborhood Planning Unit

**1988 POPULATION 253**

**LEGEND**

----- Sewer Easement  
----- Possible Future Roads

**LAND USE**

Single and Double  
Attached Housing

City and Institutional  
Park and Recreational  
Utilities

----- PREVIOUSLY APPROVED

**CARPENTER  
PROPOSED PLAN**

Notes: This is a plan for the site and is subject to change. For more details see the Land Planning Division of the City of Vancouver.

----- Neighborhood Boundary  
----- Zoning Boundary  
----- Site Plan Capital Boundary  
----- Land Map Amendment

Approved:  
Planning Council, June 24/92  
City Council, June 30/92

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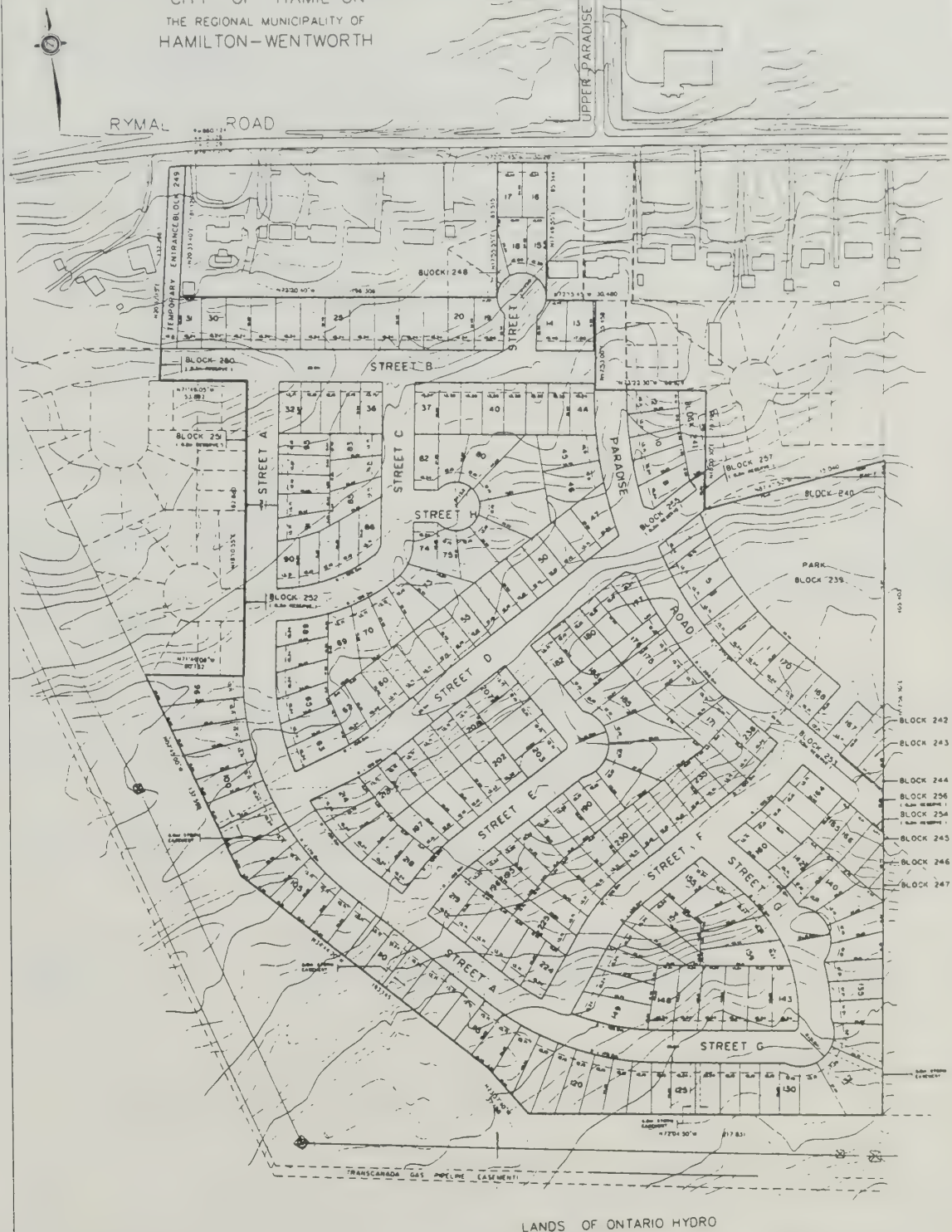
0 100 200 300 400 500 600 700 800 900 1000

# APPENDIX A

**DRAFT PLAN of SUBDIVISION**  
**PART OF LOT 1, CONCESSION 1**  
**CITY OF HAMILTON**  
 THE REGIONAL MUNICIPALITY OF  
 HAMILTON-WENTWORTH

**HIGHRIDGE SOUTH**

35°



**SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LAND TO BE SUBDIVIDED AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN ON THE PLAN.

SIGNED: STEVEN A. BRIDGES, S.S. AND SIGNED L.T.S.  
 DATE: 19

**OWNER'S CERTIFICATE**

I HEREBY CONSENT TO THE FILING OF THIS PLAN BY PLANNING INITIATIVES LTD.

SIGNED: BRADLEY DEVELOPMENT CORP. BY: BRADLEY DEVELOPMENT CORP.  
 DATE: 19

**OWNER'S CERTIFICATE**

I HEREBY CONSENT TO THE FILING OF THIS PLAN BY PLANNING INITIATIVES LTD.

SIGNED: BRADLEY DEVELOPMENT CORP. BY: BRADLEY DEVELOPMENT CORP.  
 DATE: 19

**INFORMATION REQUIRED**

UNDER SECTION 50(2) OF THE PLANNING ACT 1963

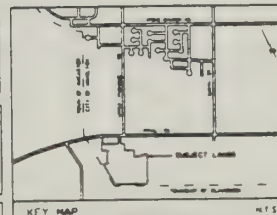
- B- SINGLE FAMILY LOTS
- C- RESIDENTIAL, VACANT AND OPEN SPACE
- D- MUNICIPAL WATER SUPPLY
- E- FULL MUNICIPAL SERVICES

**LAND USE SCHEDULE**

LOTS 1-100	SINGLE FAMILY LOTS	1.000 ha
BLOCK 242	PARK	1.000 ha
BLOCKS 243 TO 247 FUTURE DEVELOPMENT	0.20-1.00	ha
BLOCK 248	TEMPORARY ENTRANCE	0.200 ha
BLOCKS 249 TO 257	0.3 RESERVE	0.200 ha
ROADS	0.200 ha	ha
STREETS A TO G AND UPPER PARADISE ROAD	0.200 ha	ha
TOTAL		17.000 ha

**REVISIONS**

NO.	DESCRIPTION	DATE	BY
1	AS PER SURVEYOR'S CERTIFICATE		



**planning initiatives ltd.**  
 1000 SHEPPARD AVENUE EAST, SUITE 100, SCARBOROUGH, ONTARIO M1S 1B7  
 TEL: (416) 291-1111  
 FAX: (416) 291-1112

DESIGNED BY: LAP  
 DRAWN BY: LAP  
 CHECKED BY: J.S.A.  
 DATE: MAY 1992  
 SCALE: 1:1000  
 SHEET NO. 1 OF 1





13

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 16 1992

CITY CLERKS

**DATE:** September 11, 1992  
ZA-92-19  
Kirkendall North Neighbourhood

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Request for a change in Zoning - No. 412 Charlton Avenue West.

**RECOMMENDATION:**

- A. That approval be given to Official Plan Amendment No. to redesignate lands municipally known as 412 Charlton Avenue West from "RESIDENTIAL" to "COMMERCIAL", and the City Solicitor be directed to prepare a By-law of adoption for submission to the Regional Municipality of Hamilton-Wentworth.
- B. That approval be given to Zoning Application 92-19, Roland P. Baldessarimi, owner, for a change in zoning from "D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District to "G-3" (Public Parking Lots) District, for the property located at 412 Charlton Avenue West, as shown on the attached map marked as APPENDIX "A", on the following basis:
- i) That the subject lands be rezoned from "D" (Urban Protected Residential One and Two-Family Dwellings, Townhouses, etc.) District to "G-3" (Public Parking Lots) District;
  - ii) That the "G-3" (Public Parking Lots) District regulations as contained in Section 13C of Zoning By-Law No. 6593, be modified to include the following variances as special requirements:
    - 1. That notwithstanding Section 13C(3) of Zoning By-Law No. 6593, the following requirements shall apply to the subject property:
      - a) That a landscape planting strip having a minimum width of 1.5 m, and a visual barrier not less than 1.2 m in height and not greater than 2.0 m in height, shall be provided and maintained along the easterly property line; and,
      - b) That a landscape planting strip having a minimum width of 3.0 m shall be provided and maintained along the southerly property line, and a visual barrier not less than 1.2 m in height and not greater than 2.0 m in height shall be provided and maintained within the landscape planting strip, except for any area used for vehicular access;

- iii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map W-13 be notated S- ;
- iv) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-13 for presentation to City Council;
- v) That the proposed change in zoning will be in conformity with the Official Plan for the Hamilton Planning Area upon approval of Official Plan Amendment No. by the Regional Municipality of Hamilton-Wentworth;
- vi) That the Kirkendall North Neighbourhood Plan be amended by redesignating the subject lands from "Single and Double Residential" to "Commercial".

C. That the amending By-law not be forwarded for passage by City Council until such time as the applicant applies for and receives site plan approval.

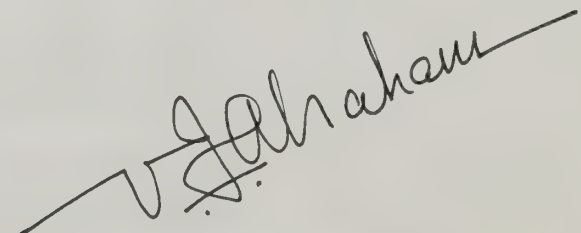
***EXPLANATORY NOTE:***

The purpose of the By-Law is to provide for a change in zoning from "D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District to "G-3" (Public Parking Lots) District, for the property located at 412 Charlton Avenue West, as shown on the attached map.

The effect of the by-law is to allow use of the subject lands for additional parking for the Liquor Control Board of Ontario outlet located at No. 233 Dundurn Street South.

In addition, the By-Law provides for the following variances as special provisions:

- a landscape planting strip having a minimum width of 1.5 m, and a visual barrier not less than 1.2 m in height and not greater than 2.0 m in height, shall be provided and maintained along the easterly property line; and,
- a landscape planting strip having a minimum width of 3.0 m shall be provided and maintained along the southerly property line, and a visual barrier not less than 1.2 m in height and not greater than 2.0 m shall be provided and maintained within the landscape planting strip, except for any area used for vehicular access.



**J. D. Thoms, M.C.I.P.**  
**Commissioner**  
**Planning and Development Department**

**V.J. Abraham, M.C.I.P.**  
**Director of Local Planning**

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

- Proposal

The applicant has applied for a change in zoning from "D" (Urban Protected Residential - One and Two Family Dwellings and Townhouses, etc.) District to "G-3" (Public Parking Lots) District for the property municipally known as 412 Charlton Avenue West, to allow use of the subject lands for additional parking for the adjacent Liquor Control Board of Ontario outlet, located at No. 233 Dundurn Street South.

- Zoning Application 82-40

At its meeting of October 26, 1982, City Council approved an application to permit the continuance of an existing parking lot for the property municipally known as 407 Charlton Avenue West. The approval was subject to the following condition:

"That the applicant submit a site plan for the parking lot and obtain approval of the Planning and Development Committee."

To date, this condition has not been fulfilled.

**LOT SIZE AND AREA:**

- 13.03 m (42.75 ft.) of lot frontage on Charlton Avenue West;
- 37.49 m max. (123.0 ft.) of lot depth; and,
- 491.34 m<sup>2</sup> (5289.0 sq./ft.) of lot area.

**LAND USE AND ZONING:**

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	Single-Family Dwelling	"D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District
<u>Surrounding Lands</u>		
to the north, and east	Single-Family Dwellings	"D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District



to the west	Commercial	"H" (Community Shopping and Commercial, etc.) District
to the south	Parking Lot and Single-Family Dwellings	"D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District

**OFFICIAL PLAN:**

The subject lands are designated **Residential** on Schedule A - Land Use Concept of the Official Plan. The following policies should be noted:

- "A.2.1.1 The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- A.2.1.3 Within areas designated RESIDENTIAL, land uses compatible to dwellings and deemed necessary by Council to serve the needs of local residents will be permitted, including, but not limited to:
- iv) Limited individual or groups of commercial uses on sites not exceeding .4 hectare in area, excluding Automobile Service Stations, in accordance with the Local Commercial Uses and General Provisions set out in Subsection A.2.2 of this Plan."

The following policies from Subsection A.2.2 - Commercial Uses should be noted:

- "A.2.2.34 Where COMMERCIAL USES are proposed to be developed adjacent to Residential land uses, Council will be satisfied that the following provisions are adequately met:
- i) Access drive, parking and service areas will be screened and/or buffered such that noise, light or undesirable visual impacts emanating from the COMMERCIAL USE are mitigated;
  - ii) Light from standards or other external lighting fixtures, excluding those used for store and window display or wall illumination, will be directed downwards and shielded or oriented as much as practicable away from the adjacent Residential Uses; and,
  - iii) Light standards will be of a height that is in scale with the facility, but will not be of a height sufficient to create a nuisance to adjacent land uses.
- A.2.2.38 No parking facility serving a COMMERCIAL USE or group of uses will be permitted beyond a COMMERCIAL designation, nor will vehicular access to said COMMERCIAL USES be permitted over Residentially designated lands."

The proposed parking lot on the subject lands does not comply with the Official Plan. A redesignation from "Residential" to "Commercial" is required to satisfy Policy A.2.2.38, and Policy A.2.2.34 must be met.

### ***NEIGHBOURHOOD PLAN:***

The subject lands are designated "Single and Double Residential" on the approved Kirkendall North Neighbourhood Plan. The proposal does not comply with the intent of the Plan. If approved, an amendment to the Plan would be required to redesignate the subject lands from "Single and Double Residential" to "Commercial".

### ***RESULTS OF CIRCULARIZATION:***

- The following Agency and Department have no comment or objection:

- Hamilton Region Conservation Authority; and,
- LACAC.

- The Hamilton-Wentworth Engineering Department has advised that:

"There are public watermains and combined storm and sanitary sewers available to service these lands.

According to our records, the existing road allowance width of Charlton Avenue West is 20.12 m. Therefore, we do not anticipate any further road allowance widenings at this time.

In the absence of any details shown or plans submitted, we advise that any works within the Charlton Avenue West road allowance or the alley must conform to the City Of Hamilton Street By-law.

The Traffic Department is to comment on access design and location.

We recommend that the subject lands be developed through site plan control at which time we will provide detailed comments on grading, landscaping etc.

According to our records, the alley to the rear of the subject lands is public assumed."

- The Traffic Department has advised that:

"We have received complaints from area residents regarding the lack of on-street parking on Charlton Avenue and the surrounding residential streets. We are supportive of the request to rezone these lands to "G-3" (Public Parking Lots) as it may help to alleviate some of the on-street parking problem in this area.

We find this application to be satisfactory subject to the lands being placed under site plan control."

Further to the above the Traffic Department has forwarded the following comment:

"The applicant is requesting to rezone the property to "G-3" (Public Parking Lots) in order to provide

additional parking for the Liquor Store at 233 Dundurn Street South. It is our understanding that the size of the Liquor Store will not be increased. Therefore, we do not anticipate that the proposed rezoning will significantly increase the number of vehicle trips presently generated by this site. At best, the additional on-site parking will reduce some of the vehicle congestion in this area of Dundurn Street South. Also, the additional on-site parking may alleviate some of the overflow of commercial parking on Charlton Avenue West which has been a source of complaint by area residents.

Vehicles are presently using the existing driveway on Charlton Avenue to enter and exit the site. However, the driveway is only 4.3 m wide. We recommend that the driveway be widened to a minimum 6.0 m to provide adequate width for the two-way movement of vehicles."

- The Building Department has advised that:

- "1. A 1.03 m wide portion of land measuring from the east property line westerly and extending 6.0 m north of the south property line shall not have any parking spaces located on that portion of land.
2. Any parking space located adjacent to a side lot line or rear lot line of a public parking lot shall be at least 1.5 m from any residential building in an adjacent residential district.
3. A visual barrier, not less than 1.2 m nor more than 2.0 m high, shall be erected along the northerly and easterly lot lines.
4. The parking area shall be paved with asphalt or concrete and drained.
5. Suitable lighting facilities shall be installed and maintained so as to be deflected away from all nearby residential districts.
6. A demolition permit is required for the demolition of the existing house and garage on the lot."

- The H.S.R. has advised that:

"If the property at 412 Charlton Avenue West is to be converted to a parking lot the Hamilton Street Railway would like to relocate from the existing bus stop (17 meters east of Dundurn), adjacent to the LCBO, to a location (37 meters east of Dundurn) east of the present entrance to the LCBO.

H.S.R. Operators on Route 6 Aberdeen/Locke find the left turn from Charlton Avenue West, a one-way street, onto Dundurn awkward.

The present location of the outbound bus stop on Charlton Avenue West, 17 meters east of Dundurn Street, does not afford Operators adequate distance to position themselves fully onto the south side of Charlton Avenue prior to turning left onto Dundurn. Often Operators find themselves positioned



to the right of another vehicle also waiting to turn left onto Dundurn. This could be alleviated if our bus stop were relocated to 37 metres east of Dundurn Street; providing Operators adequate room to position buses before turning left from Charlton onto Dundurn.

This was not done earlier due to the resistance of the resident, at 412 Charlton Avenue West, to a bus stop in front of their home."

#### **COMMENTS:**

1. Approval of the application would require an amendment to the Official Plan to redesignate the subject lands from "RESIDENTIAL" to "COMMERCIAL".
2. The proposal would also require an amendment to the approved Kirkendall North Neighbourhood Plan to redesignate the subject lands from "Single and Double" Residential to "Commercial".
3. The proposal has merit and can be supported for the following reasons:
  - it would help to alleviate problems associated with on-street parking on Charlton Avenue West, as noted by the Traffic Department;
  - it would alleviate problems associated with the present location of the existing bus stop, as noted by H.S.R, which could be relocated in front of the subject property; and,
  - it would allow the existing access to be widened to the minimum 6.0 m width, which would improve its current two way operation. It should be noted that traffic exiting the parking area will still be restricted to right turn out only, since Charlton Avenue West is designated one-way west bound.
4. The Building Department has noted that in keeping with the "G-3" (Public Parking Lots) District regulations, a 1.5 m minimum distance separation and visual barrier not less than 1.2 m high and not greater than 2.0 m high will be required along the northerly and easterly property boundaries. It would be appropriate to waive the requirement along the northerly property line since it abuts an alley. However, notwithstanding the minimum "G-3" (Public Parking Lots) District regulations the following special provisions are recommended:
  - a landscape planting strip having a minimum width of 1.5 m, and a visual barrier not less than 1.2 m in height and not greater than 2.0 m in height shall be provided and maintained along the easterly property line; and,
  - a landscape planting strip having a minimum width of 3.0 m shall be provided and maintained along the southerly property line, and a visual barrier not less than 1.2 m in height and not greater than 2.0 m in height shall be provided and maintained within the landscape planting strip, except for any area used for vehicular access.

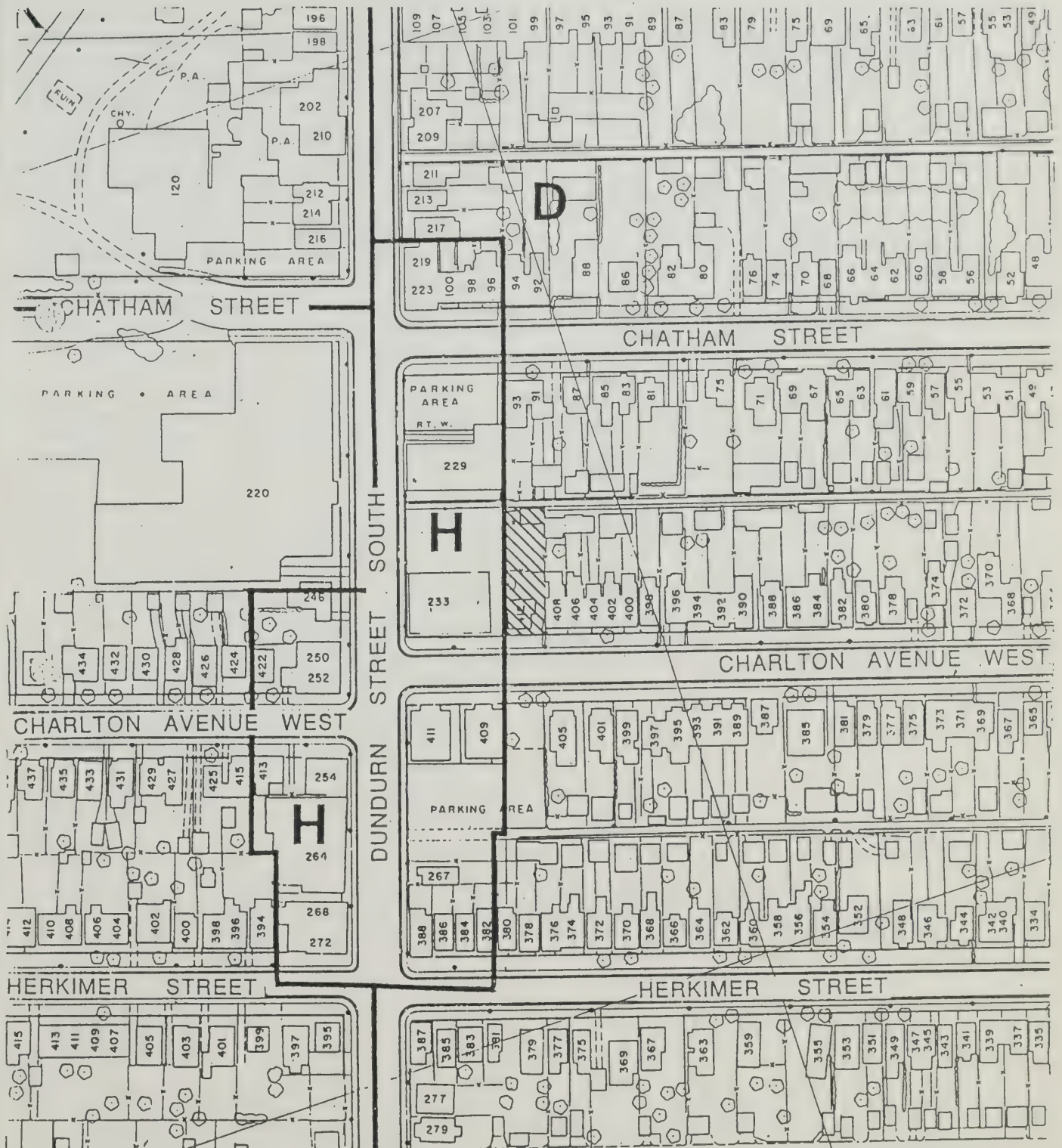
The above-mentioned landscape planting strip and visual barrier along the easterly and southerly lot lines will mitigate the potential spill over effects (e.g., noise, headlight glare) of the parking area, and will maintain and enhance the existing Charlton Avenue streetscape.

5. The "G-3" (Public Parking Lot) District is subject to Site Plan Control By-Law 79-275 as amended by By-Law No. 87-223. In this regard, concerns related to buffering, fencing, grading, landscaping, parking arrangement, and access will be addressed. However, since a Building Permit is not required for the construction of a parking lot it is recommended that the amending By-law not be forwarded for passage by City Council until such time as the applicant applies for and receives site plan approval.

***CONCLUSION:***

Based on the foregoing, the proposal can be supported.

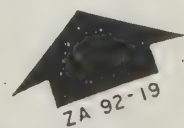
JL/ma  
WPZA9219



**Legend**



Site of the Application



**APPENDIX A**





13a)

2A-92-19.

The Corporation of the City of Hamilton  
City Hall  
Hamilton, Ontario  
L8H 3t4  
Attn: Planning and Development Committee

Sept. 04. 1992

Re: Change in zoning for property at 412 Charlton Ave West

I wish to bring to the attention of the Planning Committee my concerns with the proposed zone change to the above referenced address.

I am a home owner on the north side of Charlton Ave West between Dundurn and Lock Streets and my concerns regarding the zone change are described herein:

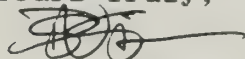
1. that traffic will increase along the back alley way between Dundurn and Lock Streets because of the increase to parking area, adding to the existing hazards of poor lighting, potholes and poor maintenance. Further, speed limit signs should be erected.
2. that access to the alley way should be restricted to entrances off Dundurn Street and Lock Street only and that an 8'-0" high fence be erected on the east and north ends of the proposed parking area preventing access other than from those mentioned,
3. that litter, garbage or trash receptacles be placed on the property of the LCBO for regular disposal, pick up or removal and signs be placed warning of impending fines,
4. that lighting be improved at the proposed parking area eliminating all dark areas
5. finally, that "no parking" signs be placed in the alleyway at the entrances on both Lock and Dundurn Streets

Please understand that unless these concerns are addressed I cannot give my support for the proposed change to zoning.

In addition I should like to point out that the Planning and Development Committee might wish to consider items 2. and 3. anyway as they are growing concern.

I look forward to hearing from you,

Yours Truly,



Peter Simmons

382 Charlton Ave. W.  
Hamilton, Ont.  
L8P 2E7





"Copy sent to V. Abraham, Director of Local Planning, Planning Department, P. Noe Johnson, City Solicitor, Law Department, M. Main, Director of Traffic Services, Traffic Department and Alderman D. Drury, Chairperson, Planning and Development Committee - 1992 September 15"

136

RECEIVED

SEP 14 1992

CITY CLERKS

24 19  
Patricia Simmons  
382 Charlton Avenue West  
Hamilton, Ontario  
L8P 2E7  
(416) 522-2896

24-92-19

The Corporation of the City of Hamilton  
City Hall  
Hamilton, Ontario  
L8H 3T4

Attn: Planning and Development Committee

**RE: Change in zoning for property at 412 Charlton Avenue West**

As the homeowner and resident of 382 Charlton Avenue West, I wish to submit my concerns regarding the change of zoning to the above mentioned property.

It is my understanding that the dwelling on this property is to be demolished and the land used for additional parking for the Liquor Control Board of Ontario, presently located on the adjacent property.

Currently, garbage has been allowed to accumulate in the parking lot of the LCBO and on a patch of land, located directly behind the Charlton Avenue West dwelling and to the east of the LCBO. Not only is this garbage accumulation a health hazard, it is also an eyesore and embarrassment for the residents of Charlton Avenue and Chatham Street who must use the alleyway (accessed from Dundurn Street South) to reach their homes. My concern is that by extending the property line of the LCBO the line of garbage will also be extended.

I would like assurances from both the City of Hamilton and the LCBO, that, with or without the rezoning approval, both parties will address the issue of garbage containment and removal from 233 Dundurn Street South.

I trust that my concerns will be given due consideration and I look forward to a response from all parties concerned.

Sincerely,

*Patricia Simmons*

Patricia Simmons

cc: Alderman Cooke, Ward 1  
Mr. Mike Stevenson, Manager, LCBO - 233 Dundurn Street South



"Copy sent to V. Abraham, Director of Local Planning, Planning Department, P. Noe Johnson, City Solicitor, Law Department, M. Main, Director of Traffic Services, Traffic Department, and Alderman D. Drury, Chairperson, Planning and Development Committee - 1992 September 03"

Hamilton, Ontario  
L8P 2E6

September 2, 1992

13C  
21-92-19

The Secretary  
Planing and Development Committee  
City Hall  
71 Main Street, West  
Hamilton, Ontario  
L8N 3T4

RECEIVED

SEP 03 1992

CITY CLERKS

To The Secretary:

I am strongly opposed to the zoning change from District D to G-3 District regarding the property at 412 Charlton Avenue, West. for the following reasons.

1) We already have ample parking in the area now. We have Babe's Sport's Bar Parking which is very large and covers at least 3 lots on Dundurn Street and extends over to another double lot on Charlton Avenue directly across from 412 Charlton Avenue, West.

- We also have the existing Liquor Control Board Lot.
- We have the existing Brewers Retail Lot.
- We also have street parking on Dundurn and Charlton streets.

All this within a 1/2 block radius. I hardly think we need more.

2) We now have exsiting difficulties with undesirable persons and I have little doubt that this will be aggravated futher if the parking is increased.

3) I have a small child as many of the neighbors do and I'm concerned about the traffic increasing and all the children who walk this way to Earl Kitchener and St. Joseph's Schools.

4) I have lived on this corner for 31 years. I will no longer be able to call it home if this zoning goes through. It is my oppinion that Mr. Baldessarini, who has lived in this area less than 1 year, has a blatant disregard for this neighborhood and the people who call it home. Mr. Baldessarini is out to flip this property and make a dollar at the rest of our expence.

Sincerely

Shirley Deans  
409 Charlton Ave W.



"Copy sent to V. Abraham, Director of Local Planning, Planning Department, P. Noe Johnson, City Solicitor, Law Department, M. Main, Director of Traffic Services, Traffic Department, and Alderman D. Drury, Chairperson, Planning and Development Committee - 1992 September 03"





"Copy sent to V. Abraham, Director of Local Planning, Planning Department, P. Noe Johnson, City Solicitor, Law Department, M. Main, Director of Traffic Services, Traffic Department, and Alderman D. Drury, Chairperson, Planning and Development Committee - 1992 September 03"

SEP 03 1992

13d

ZA92-19

31 August, 1992

Brian G. Sayer  
64 Chatham St.,  
Hamilton,  
Ontario,  
L8P2B4

RE Proposed zoning change to 412 Charlton Ave. West.

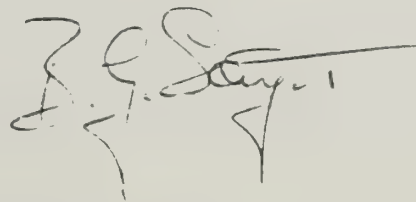
Dear Sir,

The proposal to expand the car park that serves the LCBO on Dundurn St. will not alleviate the main problem - too much traffic in one area - in any substantial way. On some weekends, this is the most congested area in the City. The problem is exacerbated by the adjacent Beer Store with its grossly inadequate parking, particularly with the closing of the store on King St. West. It seems ludicrous to have the police direct traffic so someone can buy a case of beer.

With the later closing and increased traffic associated with these two stores, their presence has become a major aggravation to the people living in a predominantly residential neighbourhood. These stores have attracted a less desirable element to the point that my teenage daughter and elderly mother now take the long route home to avoid that area.

It would be expedient to pursue the possibility of relocating one or both of these stores to a more practical location such as Dundurn Place where there is adequate parking with better road access or the vacant Mr. Grocer store, also with ample parking, at the Aberdeen St. end of Dundurn St.

Sincerely,









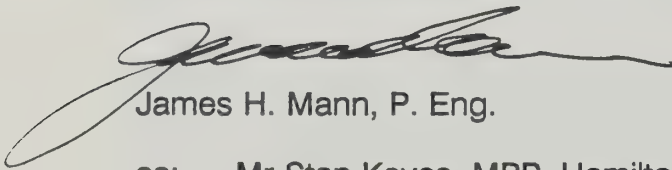
If the L.C.B.O./Beer Store location is to remain here, then there are several other solutions to this problem; such as a constructing a proper crosswalk to protect people walking across the street or by the L.C.B.O. purchasing the commercial property across the street for an expansion or by consuming the west end of the alleyway between the beer store and L.C.B.O. and building a fence (see plan 1).

Please realize that people do not want to be infringed upon. The L.C.B.O./Beer Store expansion will create further fragmentation to the existing "commercial islands" in the area.

My house is only the third house from the proposed development and others are more likely to be more distressed than myself. I am fully willing and able to organize any legal means necessary to prevent this expansion but would feel much more secure to know that our own city officials were reasonable and fair towards the citizens of this city.

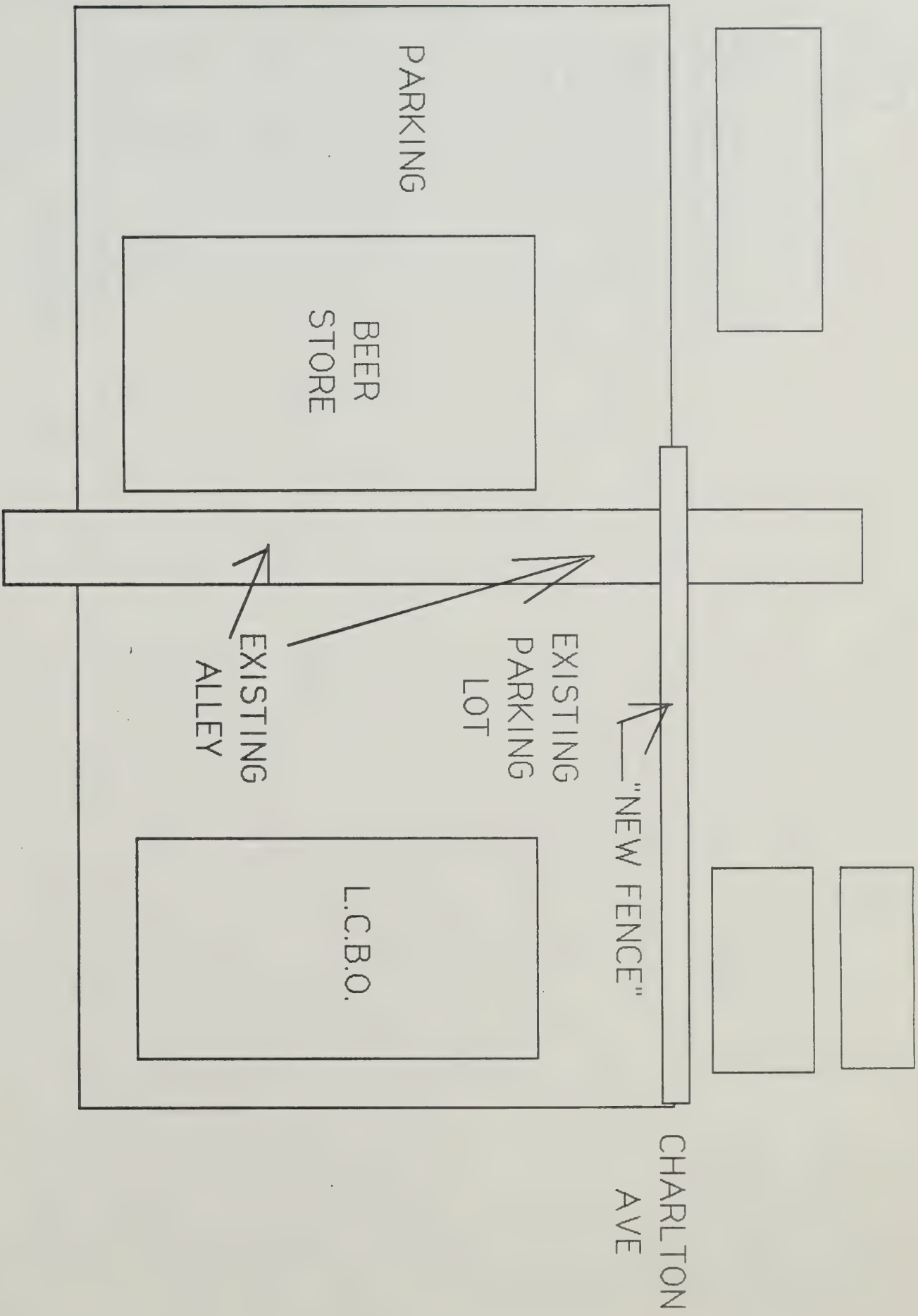
If you have any questions, please feel free to call me during business hours at 1-416-660-9939. I would be pleased to answer any questions that you may have.

Best Regards,

A handwritten signature in black ink, appearing to read 'James H. Mann', with a long, sweeping underline.

James H. Mann, P. Eng.

cc: Mr Stan Keyes, MPP, Hamilton West  
Mr Mike Mann, 404 Charlton Avenue West  
Local residents, Charlton Avenue



JAMES MANN  
JULY 9. 1992

DUNDURN AVE

CHARLTON  
AVE

PLAN 1





397 Charlton  
Hamilton Ont

L8P 2E6

"Copy sent to V. Abraham, Director of Local Planning, Planning Department, P. Noe Johnson, City Solicitor, Law Department, M. Main, Director of Traffic Services, Traffic Department and Alderman D. Drury, Chairperson, Planning and Development Committee - 1992 July 10"

2A-92-19

RECEIVED

JUL 10 1992

CITY CLERK

13f

Planning and Development  
Committee

City Hall

71 Main Street West

Hamilton Ont

L8N 3T4

Monday July 6, 1992

To Whom This May Concern

I am writing to express my opposition to File Number  
2A-92-19. (expanding the parking lot behind the <sup>Dundurn</sup> Liquor Store)

I have attempted to write this letter a couple of times but  
decided to wait until I have had time to cool down.

as you can see by my address I live a few doors  
down from Dundurn. I can stand on my front porch and  
see the back of the liquor store. Please bear with me as I  
outline my concerns about this project. And why I don't want  
the change in zoning.

The first major concern of mine is the traffic. It's bad  
enough now without more traffic in the area. I know if the  
parking lot is expanded, many people who now walk there will suddenly  
decide to drive. I almost dread Friday evenings and Saturdays plus

the day before long weekends or other major holidays. The area will be a zoo with cars. It is bad enough now but will be two or even three times worse with an expanded parking lot. I can also see many accidents because of the extra traffic. Especially at key times. So I hope the police will be on alert to come to Charlton and Dundas for another accident. Then on top of the increased traffic turning into the liquor store, traffic from another unnecessary project at Locke and Charlton will only add to the problem. Charlton will become a street long parking lot.

The next concern is related to the traffic problem - parking. When the parking lot is full, I'm sure drivers will just park wherever there is a spot. This will then mean local residents won't be able to park in front of their homes. I know this will not go over well with some and might even result in some hot tempers. At the same time, during and after the construction of the unnecessary apartment complex and its shortage of parking spaces, local residents will end up on the short end of the stick when it comes to parking along the entire street. So whoever is in charge of both projects, I hope they try to find a spot to park before Christmas or Easter, etc. and end up driving around the block several times. Then they'll realize how difficult it will be for local residents. How many parking spots on the street will be lost because of these projects, I don't know, but there will be lost spots at both ends of the street. So you tell me and others where people on the street who own or rent will be allowed to park at those key times so someone can go into the store for another bottle. For point number three, I'm concerned about the increased noise, garbage, etc. the parking lot will bring. Right now, the house



that will be torn down, block the noise. Even the noise from the millers parking lot is rather unnoticeable most of the time. But once the house is down, unless some type of sound barrier is installed, the noise will be even more noticeable. Plus on windy days, garbage will be blown all about. Most people at the end of the street do make an effort to keep their properties neat and tidy. So more time will be spent picking up the extra garbage unless people are hired specifically to clean up the garbage. I'm also concerned about the placement of the light standards. I don't want them turned so they'll be shining in my bedroom window, etc. Please don't get me wrong, I know the lights are needed but I do hope the lights will face towards Dundurn. There is also some concern on my part about the exit/entrance openings I would like to know if there will be one off of Charlton as there is now, if it will be the same one or will a new one be created? I'm also wondering if the trucks will still have to use Charlton for deliveries? Will there be two openings off of Charlton, one for cars and another for trucks? Plus what type of fencing will be placed around the lot?

The fourth concern is about the alleyway between Charlton and Cratham. While discussing this parking lot project, someone I know who shares the alley brought a point I had not considered. It involves the possibility of cars blocking access to the alley as she mentioned to me, she has been trapped trying to go from the alley onto Dundurn or Torrie (she has had trouble at both ends of the alley) so unless there is no access from

the ally to the parking lot, residents wanting to park in their garages will have problems. Then at the same time, once construction has started on that illplanned, unnecessary apartment complex, heavy trucks and other construction equipment will probably block off access from Lorent so that will mean keeping the Dundurn end open for local residents only. Otherwise I can foresee people being blocked in while someone heads into the liquor store. So if you want to encourage people to park behind their homes keep this point in mind and have no access from the ally.

I have just thought of another concern. It involves the H.S.R bus ~~stop~~<sup>stop</sup> located at the side of the liquor store. Will the stop be kept where it is or will that moved so it won't interfere with the parking lot? After all the bus stop has been there for years. So take into consideration the needs of those disembarking from the Lore bus when planning the exits/entrances on Charlton. Public safety should be number one. I hope I won't be the person injured as a result of a car trying to enter/leave the parking lot as I get off the bus. Then if you think I'm upset now, wait until then.

My last concern is about public safety with the increased traffic in the area. I know someone will end up getting hurt. Did anyone consider the fact there is three schools in the area? That means several children going up and down Dundurn/Charlton on their way to school. What with some careless drivers, some child is going to be hit by cars going in/out of the lot. Has any thought even be given to posting a crossing guard at Dundurn/Charlton corner? Or even better a stop light? More than likely not. This will push the residents even more in their fight for a ~~stop~~<sup>stop</sup> light on Dundurn between

the ones at Aberdeen and Main. Then there is my concern about the HSR bus stop and passenger safety plus those using the

My

Please, please consider all of these concerns as you make your decision. I know in talking to others in the area, no one wants the expansion. So tell the Liquor Store to reconsider their plans too. I know I'll boycott this Liquor Store if they are allowed to expand against the wishes of the people who live in the area. I hope someone will be able to answer all of my questions about the project. In fact I expect to receive answers and a no vote to expansion.

Sincerely

Sharon Perks

Sharon Perks





13g)

JUN 25 1992  
TO

June 13/92

JUN 17 1992

Dear Mr. Lakatos,

Re: Zoning change ZA-92-19

We as property owners  
object to the zoning change.

- (A) Our property value will decrease
- (B) Increased traffic on Charlton Avenue West.
- (C) Headlights from proposed parking lot shining onto our house every night.
- (D) The parking lot is already an eye sore off





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13h)

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406 Charlton Ave. W.  
Hamilton, Ontario  
L8P 2E7

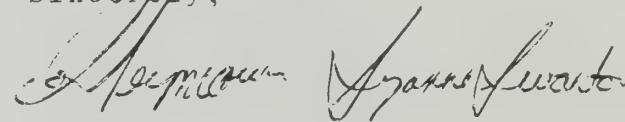
Dear Mr. Lakatos:

Living two houses away from the proposed zoning change we are most concerned about the possibility of a bigger parking lot. To highlight our concerns:

- 1) Currently, there is a great deal of traffic which will be amplified if there is a more accessible entrance to the liquor store parking lot from Charlton.
- 2) The parking lot is poorly maintained in terms of garbage (paper, broken glass, shopping cart full of garbage). We feel the effects of this on Charlton, as well as the back alley. No doubt the beer store also contributes to the problem. We tolerate this by picking up garbage ourselves. We are concerned about the increased size of a parking lot that is not well maintained.
- 3) We question the need for increased spaces in a parking lot where people only stay for a few minutes.
- 4) Although we realize it is possible to put up a noise barrier, we are concerned about the noise increased traffic will bring.
- 5) Currently, safety in the back alley is a concern. People often drink behind the garages at night as there is no lighting. This is a concern now, and will continue to be with a larger parking lot.
- 6) We find it ironic that housing is being torn down to make way for parking, when there is an empty grocery store with full parking just up Dundurn Street.

We urge you to look carefully at the impact an increased parking lot will have on our neighbourhood. We fully support such developments as the Artiban non-profit housing at the corner of Locke and Charlton. We do not support a bigger parking lot which impacts a residential street.

Sincerely,

Handwritten signatures of Don Seymour and Suzanne Swanton in cursive script.

Don Seymour & Suzanne  
Swanton

cc ward alderpersons

RECEIVED

SEP 16 1992

CITY OF HAMILTON  
- RECOMMENDATION -

CITY CLERKS

14.

**DATE:** 1992 September 15  
ZA-92-08  
Bartonville Neighbourhood

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Request for changes and modifications in Zoning - No. 1907 King Street East.

**RECOMMENDATION:**

- A. That approval be given to Zoning Application 92-08, Faith Evangelical Lutheran Church of Hamilton, owner, requesting changes in zoning from "C" (Urban Protected Residential, etc.) District to "DE-3" (Multiple Dwellings) District modified (Block "1") and to "H" (Community Shopping and Commercial, etc.) District modified (Block "2"), and for a modification to the "H" (Community Shopping and Commercial, etc.) District (Block "3"), to permit development of the rear portion of the subject lands for a three (3) storey, 32 unit senior citizen's non-profit multiple dwelling (apartment building) in conjunction with the existing church, for property located at No. 1907 King Street East, as shown on the attached map marked as APPENDIX "A", on the following basis:
- i) That Block "1" be rezoned from "C" (Urban Protected Residential, etc.) District to "DE-3" (Multiple Dwellings) District;
  - ii) That Block "2" be rezoned from "C" (Urban Protected Residential, etc.) District to "H" (Community Shopping and Commercial, etc.) District;
  - iii) That the "DE-3" (Multiple Dwellings) District regulations as contained in Section 10C of Zoning By-law No. 6593, applicable to Block "1", be modified to include the following variances as special requirements:
    - a) That notwithstanding Section 10C(3)(i)(b) of Zoning By-law No. 6593, a front yard of a depth of at least 4.5 m shall be provided and maintained;



- b) That notwithstanding Section 10C(3)(ii)(b) of Zoning By-law No. 6593, a westerly side yard of a width of at least 4.0 m shall be provided and maintained;
  - c) That Section 10C(3)(iii)(b) of Zoning By-law No. 6593, shall not apply;
  - d) That notwithstanding Section 10C(5) of Zoning By-law No. 6593, no building or structure shall have a gross floor area greater than 2,750 m<sup>2</sup>, and thirty two (32) dwelling units;
  - e) That notwithstanding Section 10C(6) of Zoning By-law No. 6593, a minimum landscaped area of 997.0 m<sup>2</sup> shall be provided and maintained on the lot;
  - f) That notwithstanding Section 18.(3)(vi)(cc)(iii) of Zoning By-law No. 6593, a balcony may project into the required westerly side yard not more than 2.0 m;
  - g) That Section 18A(1)(c) of Zoning By-law No. 6593 shall not apply;
  - h) That Section 18A(25) of Zoning By-law No. 6593 shall not apply; and
  - i) That a visual barrier not less than 1.2 m and not more than 2.0 m in height shall be provided and maintained along the entire westerly, easterly and northerly lot lines, except for any area used for driveway access;
- iv) That the "H" (Community Shopping and Commercial, etc.) District regulations as contained in Section 14 of Zoning By-law No. 6593, applicable to Blocks "2" and "3", be modified to include the following variance as a special requirement:
- a) That Section 14.(3)(iii)(c) of Zoning By-law No. 6593 shall not apply;
- v) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-66 be notated S- ;
- vi) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-66 for presentation to City Council; and
- vii) That the proposed changes in zoning are in conformity with the Official Plan for the Hamilton Planning Area.
- B. That By-law No. 79-275 as amended by By-law 87-223 be amended by adding Blocks "2" and "3" to Schedule "A".

**EXPLANATORY NOTE:**

The purpose of the By-law is to provide for changes in zoning from "C" (Urban Protected Residential, etc.) District to "DE-3" (Multiple Dwellings) District modified (Block "1") and to "H" (Community Shopping and Commercial, etc.) District modified (Block "2"), and for a modification to the "H" (Community Shopping and Commercial, etc.) District (Block "3") for property located at No. 1907 King Street East, as shown on the attached map marked as APPENDIX "A".

The effect of the by-law is to permit development of Block "1" for a three (3) storey, 32 unit senior citizen's non-profit multiple dwelling (apartment building), in conjunction with the existing church (Blocks "2" and "3").

In addition, the By-law provides for the following variances as special requirements:

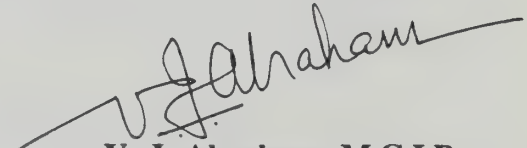
Block "1" (Seniors' Apartment Building)

- To require a minimum front yard (ie. Weir Street) of a depth of at least 4.5 m, whereas 6.18 m is required;
- To require a minimum westerly side yard of a width of at least 4.0 m, whereas 10.76 m is required;
- To eliminate the requirement of a rear yard, whereas 3.0 m is required;
- To allow a maximum gross floor area ratio of 1.04 (2,750 m<sup>2</sup>) and thirty two (32) dwelling units, whereas a ratio of 0.9 (2,389.68 m<sup>2</sup>) is permitted;
- To require a minimum landscaped area of 997.0 m<sup>2</sup> (37.5%) to be provided and maintained on the lot, whereas 663.8 m<sup>2</sup> (25%) is required;
- To allow balconies to project into the required westerly side yard not more than 2.0 m, whereas 1.0 m is permitted;
- To eliminate the requirement that one 3.7 m x 18.0 m x 4.3 m loading space be provided;
- To eliminate the requirement that the access driveway for the apartment building must be located at least 3.0 m away from the adjacent "C" (Urban Protected Residential, etc.) District; and
- To require that a visual barrier 1.2 m to 2.0 m in height shall be provided and maintained along the entire westerly, easterly and northerly lot lines, except for driveway access, whereas a visual barrier is only required adjacent to the parking area, along the easterly lot line.

Blocks "2" and "3" (Existing Church)

- To eliminate the requirement of a rear yard for the existing church building, whereas 4.5 m is required.

**J. D. Thoms, M.C.I.P.**  
Commissioner  
Planning and Development Department

  
**V. J. Abraham, M.C.I.P.**  
Director of Local Planning

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

- Proposal

It is the applicants intention to construct a three (3) storey, 32 unit senior citizen's non-profit apartment building, as an addition to the rear of the existing church (see Appendix "B"). It is also intended to apply to the Regional Land Division Committee to sever the subject lands, to create separate lots for the church and for the seniors' apartment building.

Although the Zoning By-law does not require parking for a church, 17 parking spaces will be provided on site for the church use. A total of 40 parking spaces will be provided on site for the seniors' apartment building, 11 of which will be provided on the surface and 29 of which will be provided in an underground parking garage. A loading space will also be provided in the underground garage. Further, the required visitor parking (8 spaces) will be provided on the surface and will only have access via King Street, through the church lot. The Weir Street access is only intended for use by tenants of the apartment building, who will be parking in the underground garage. Separate pedestrian entrances to the apartment building will be provided for both the King Street and Weir Street accesses.



• Neighbourhood Meetings

On August 15, 1992, a neighbourhood information meeting was held by the applicant at the Faith Lutheran Church. The following is a summary of concerns/topics discussed at the meeting:

- adequacy of water and sewer services;
- parking and traffic generation;
- rezoning process and public notification;
- proposed By-law variances;
- property taxes;
- garbage collection;
- municipal address for the apartment building;
- buffering (ie. fencing); and,
- height, bulk and architectural style of the proposed apartment building.

In addition, a neighbourhood meeting will be held by the Ward Alderman to discuss the proposal on September 17, 1992.

***APPLICANT:***

Faith Evangelical Lutheran Church of Hamilton, owner.

***LOT SIZE AND AREA:***

Block "1"

An irregular shaped parcel of land having:

- 16.7 m (55.0') of lot frontage on Weir Street South;
- an average lot depth of approximately 70.0 m (229.65'); and
- a lot area of 2,655.2 m<sup>2</sup> (28,581.27 sq. ft.).

Blocks "2" and "3"

An irregular shaped parcel of land having:

- 57.017 m (187.06 ft.) of lot frontage on King Street East;
- an average lot depth of approximately 39.95 m (131.09'); and,

- a lot area of 2,138.7 m<sup>2</sup> (23,021.53 sq. ft.) of lot area.

### ***LAND USE AND ZONING:***

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	church and a single-family dwelling	"C" (Urban Protected Residential, etc.) District and "H" (Community Shopping and Commercial, etc.) District
<u>Surrounding Lands</u>		
to the north	single-family dwellings	"C" (Urban Protected Residential, etc.) District
to the south	Shopping Centre	"G-1" (Designed Shopping Centre) District
to the east and west	Commercial/residential and single-family residential uses	"H" (Community Shopping and Commercial, etc.) District and "C" (Urban Protected Residential, etc.) District

### ***OFFICIAL PLAN:***

The subject lands are designated "RESIDENTIAL" (Block "1") and "MAJOR INSTITUTIONAL" (Blocks "2" and "3") on Schedule "A" Land Use Concept of the Official Plan.

The following policies, among others, apply to the proposal:

- "A.2.1.1      The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.

- A.2.1.8 It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.
- A.2.1.14 In evaluating the merits of any proposal for multiple-family RESIDENTIAL development, Council will be satisfied that the following considerations are met:
- i) The height, bulk and arrangement of buildings and structures will achieve harmonious design and integrate with the surrounding areas; and,
  - ii) Appropriate open space, including landscaping and buffering, will be provided to maximize the privacy of residents and minimize the impact on adjacent lower-density uses.
- C.7.1 In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity:
- i) Provision and maintenance of adequate off-street parking;
- C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value.
- C.7.3 Council will ensure that the local RESIDENTIAL ENVIRONMENT is of a condition and variety satisfactory to meet the changing needs of area residents. Accordingly, Council will:
- iii) Encourage RESIDENTIAL development that provides a range of types and tenure to satisfy the needs of the residents at densities and scales compatible with the established development pattern;
  - iv) Encourage the responsible public agencies to provide low-cost and/or senior citizen housing at appropriate locations throughout the City.
- A.2.6.1 The primary uses permitted in the areas exceeding .4 hectare in size designated on Schedule "A" as MAJOR INSTITUTIONAL, will consist of cultural facilities, health, welfare, educational, religious, and governmental activities and related uses."

The proposal complies with the intent of the Official Plan.



**NEIGHBOURHOOD PLAN:**

A Neighbourhood Plan is not available for the Bartonville Neighbourhood.

**COMMENTS RECEIVED:**

- The Building Department has advised that:
  - "1. The minimum front yard for King Street East is 5.185 m. The minimum front yard for Weir Street South must be 6.18 m at the closest point of the building. The minimum side yards for the residential component is 10.76 m, and the minimum rear yard is 3.0 m. A minimum rear yard of 4.5 m is required for the church.
  2. The maximum gross floor area for the multiple dwelling shall be 2389.68 m<sup>2</sup> (shown is 2750.0 m<sup>2</sup>).
  3. A total of forty (40) parking and manoeuvring spaces shall be provided and with eight (8) of the forty (40) spaces marked as "VISITOR PARKING". Each parking space shall be 2.7 m x 6.0 m in size with an additional 6.0 m manoeuvring space.
  4. One (1) loading space with sufficient manoeuvring space to be provided on the lot. The loading space is to be 3.7 m x 18.0 m x 4.3 m in size.
  5. All parking areas shall be 1.50 m from the residential "C" district boundary.
  6. The boundary between the parking area and residential district shall provide and maintain a 1.5 m planting strip along the portion of the easterly side lot line that abuts the residential "C" district.
  7. A 1.2 m to 2.0 m visual barrier to be provided along the easterly boundary line.
  8. A minimum of a 5.50 m width access driveway shall be provided for the King Street East and Weir Street South access driveways.
  9. The access driveway at Weir Street South must be a minimum of 3.0 m from the "C" district.
  10. The parking area shall be paved and drained.
  11. A minimum of 663.80 m<sup>2</sup> of landscaped area is to be provided entirely in the "DE-3" district.
  12. A demolition permit is required for 118 Weir Street South.

13. A balcony may project into a required side yard and rear yard not more than 1.0 m.

14. The overhead door on the north end of the building must be 4.3 m high."

- The Traffic Department has advised that:

- "1. We recommend that the entire site (the existing church as well as the proposed apartments) be placed under Site Plan Control.
2. A loading space, although not meeting all zoning by-law requirements with respect to aisle widths etc., will be provided in the underground parking area adjacent to the elevators. On this basis, we have agreed to the elimination of the by-law required loading space.
3. We recommend that the driveway slope from King Street be changed to a maximum 5 percent grade for the first 7.5 metres. The applicant has advised that physical site constraints may dictate the final driveway grade.
4. The applicant has advised that the severance line between the church and the proposed multiple dwelling properties is not yet on title. Once established, legal access will have to be guaranteed to the residents of the apartments.
5. The garage entrance does not align properly with Weir Street on the Level 1 Plan. However, we would be prepared to address this issue in the Development Application Stage.
6. The revised plans dated 1992 September 02, now show 29 underground and 11 ground level parking spaces. We support these latest parking provisions."

- The Hamilton Wentworth - Roads Department has advised that:

"There are public watermains and combined storm and sanitary sewers available to service these lands.

There are no further road allowance widenings required at this time. In the absence of any details shown, we advise that any work which may occur within the adjacent road allowance must conform to the City of Hamilton and Region's Roads Use By-law.

We recommend that the entire site be developed through site plan control to address all matters relating to setbacks, grading, access width and location, fencing, landscaping, etc.

Apparently the existing driveway to King Street is relatively steep and we advise that the grade of the access not exceed 3% in the road allowance, and 5% for the first 7.5 m on private property and a maximum grade of 10% thereafter.

The closed board fence should be recessed a minimum of 3.0 m from the King Street road allowance. Details on fencing at the Weir Street access will be provided at such time as detailed plans are submitted for our review.

It would appear from our plans that there is a driveway from Weir Street to King Street which may have been used for through vehicular traffic. Therefore, the church should ascertain at this time whether any residents may have prescriptive rights for access over these lands."

- The Hamilton Region Conservation Authority has no comments or objections.

#### **COMMENTS:**

1. The proposal complies with the intent of the Official Plan.
2. The proposal to establish a thirty-two (32) unit senior citizen's apartment building at the rear of the existing Faith Evangelical Lutheran Church has merit and can be supported for the following reasons:
  - it implements the intent of the Official Plan to provide senior citizen housing at appropriate locations throughout the City;
  - it would be compatible with established development in the surrounding mixed use area, which is comprised of one and two-family dwellings, churches, retail stores, offices, and other neighbourhood amenities;
  - it represents an infill residential development, which is in keeping with Council's Housing Intensification Strategy;
  - it will increase the supply of affordable housing, in keeping with the Provincial Housing Policy Statement on Land Use Planning for Housing; and
  - it is appropriately situated adjacent to a major arterial road (King Street East) and is within close proximity to amenities such as: shopping facilities; social services; cultural and recreational facilities; and public transit (route 5).
3. Based upon a preliminary site plan (see Appendix "B") approval of the application would require the following by-law variances:



- Yards

Front Yard

The minimum front yard proposed for the apartment building is 4.5 m, whereas 6.18 m is required. On the basis that the subject lands are irregular in shape and the front yard varies from approximately 4.5 m at the west side of the building to approximately 8.8 m at the east side (providing an average front yard depth of approximately 6.6 m), the variance can be supported.

Westerly side yard

The minimum westerly side yard proposed for the apartment building is 4.0 m, whereas 10.76 m is required. Because of the limited street frontage onto Weir Street, a portion of the front yard is technically considered to be a side yard. As such, the majority of the west side yard is actually 6.0 m in width. Further, the westerly side yard adjoins a vacant strip of land approximately 17.0 m wide, currently owned by Holy Cross Church and used for open space purposes. As well, the proposed building would be set back at least 30.0 m from the nearest single-family dwellings fronting onto Tragina Avenue South. On the basis of the foregoing, the requested variance can be supported.

For the information of the Planning and Development Committee, the applicant has advised it investigated purchasing the adjoining strip of land from Holy Cross Church, however the church did not want to sell the lands.

Rear yards

Since the existing church and the proposed apartment building are to be attached, but each use will be on a separate lot, the proposal will necessitate variances to eliminate the rear yard requirements for both buildings (4.5 m "H" District and 3.0 m "DE-3" District). As both buildings will appear to be one structure and will function as a comprehensive development, the requested variance can be supported. Further, technically, the severance is required primarily for mortgage purposes.

- Density

The "DE-3" District regulations permit a maximum floor area ratio of 0.90. In this regard, the maximum permitted gross floor area would be 2,389.68 m<sup>2</sup>. The proposed apartment building will require a variance to allow a gross floor area of 2,750.0 m<sup>2</sup> (a floor area ratio of 1.04). The requested variance is considered to be minor in nature and can be supported.

- Landscaping and Visual Barriers

To ensure adequate open space and buffering is provided, special requirements will require 37.5% of the lot area to be landscaped, as proposed, and 1.2 m to 2.0 m high visual barriers to be provided along the entire westerly, easterly and northerly lot lines (except driveway access).

- Balcony Projection

Maximum balcony projections of 2.0 m are proposed into the required westerly side yard for the proposed apartment building, whereas the zoning by-law only permits 1.0 m. The requested variance can be supported on the basis that it will establish uniform balcony sizes for the entire building. Furthermore, since the proposed apartment building is for senior citizens, they are likely to make greater use of this amenity space for leisure activities.

- Loading Space

The loading space for the apartment building will be provided in the driveway aisle of the underground parking garage, which does not meet By-law regulations. The Traffic Department has indicated that they can support the requested variance.

- Location of access driveway

The access driveway proposed from Weir Street to the underground parking garage is located within 0.0 m of the adjoining "C" (Urban Protected Residential, etc.) District, whereas it is required to be setback a minimum of 3.0 m. However, the subject lands are an anomaly, because they have limited street frontage onto the "stub end" of Weir Street. The "stub end" of Weir Street is the only possible location for vehicular access. On this basis, the proposed variance can be supported.

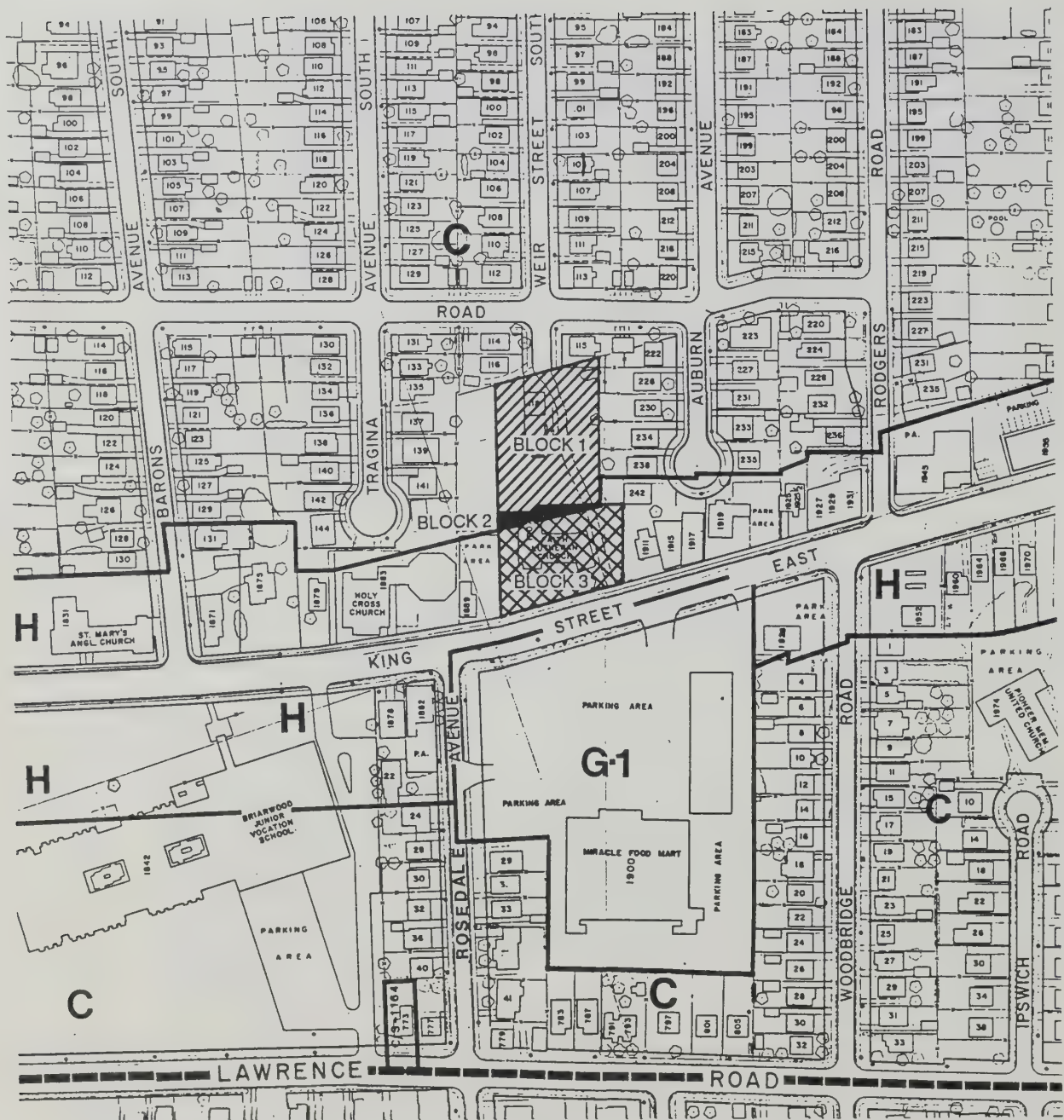
4. It should be noted that 11 of the required parking spaces for the apartment building will have access over the church lot. As such, in accordance with Section 18A(21)(c) of Zoning By-law No. 6593, a legal right-of-way must be established for the access. This should be done when the property is severed.
5. The "DE-3" (Multiple Dwellings) District is subject to Site Plan Control (Block "1"). However, the "H" (Community Shopping and Commercial, etc.) District is not subject to Site Plan Control (Blocks "2" and "3"). Since the proposal will be developed on a comprehensive basis, and access to a portion of the required parking for the apartment building will be over "H" District lands, Blocks "2" and "3" should be placed under Site Plan Control. In this regard, matters such as access, parking, landscaping, grading, etc. can be reviewed.

***CONCLUSION:***




On the basis of the foregoing, the application can be supported.

GAW/CL-M  
ZA9208





### Legend

- |         |                                                                                     |                                                                                                                                             |
|---------|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| BLOCK 1 |  | Change in zoning from "C" (Urban Protected Residential, etc.) District to "DE-3" (Multiple Dwellings) District, modified.                   |
| BLOCK 2 |  | Change in zoning from "C" (Urban Protected Residential, etc.) District to "H" (Community Shopping and Commercial, etc.) District, modified. |
| BLOCK 3 |  | Modification to the "H" (Community Shopping and Commercial, etc.) District regulations.                                                     |

ZA-92-08

APPENDIX A







15.

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 16 1992

**CITY CLERKS**

**DATE:** 1992 September 15  
ZA-92-09  
Delta West Neighbourhood

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

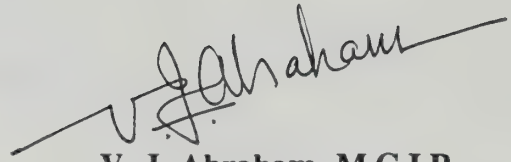
**SUBJECT:** Request for a further modification in zoning - 992  
Montclair Avenue

**RECOMMENDATION:**

That Zoning Application 92-09, Hope Haven Homes Family Rehabilitation Centre, owner, requesting a further modification to the existing "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District, to permit two emergency shelter bed units with the existing counselling rooms, in conjunction with the Rehabilitation Centre at 984 Montclair Avenue, on property located at No. 992 Montclair Avenue, as shown on the attached map marked as APPENDIX "A", be DENIED for the following reasons:

- it conflicts with one of the primary goals of the Residential Care Facilities By-law to provide the residents with an opportunity to live in an environment that closely approximates a family situation. The separation of the counselling/administration functions from the shelter component allows residents to live in a family situation rather than a potential crisis-oriented situation; and,
- it is contrary to By-law No. 89-336 which separates the counselling/administrative function from the shelter component and specifically prohibits the use of 992 Montclair Avenue for the shelter of residents at Hope Haven Homes to ensure the spirit of the Residential Care Facilities By-law is met.

J. D. Thoms, M.C.I.P.  
Commissioner  
Planning and Development



V. J. Abraham, M.C.I.P.  
Director of Local Planning

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

- Proposal

The applicant is proposing a further modification to the existing "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District to permit two emergency shelter bed units with the existing counselling rooms, in conjunction with the Rehabilitation Centre established at 984 Montclair Avenue.

- Zoning By-law No. 89-336

On November 28, 1989, City Council passed By-law No. 89-336. The purpose of this by-law was to modify the existing "D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) District to permit 992 Montclair Avenue to be used for administration and counselling offices in conjunction with Hope Haven Homes at 984 Montclair Avenue. The By-law further provides that 992 Montclair Avenue cannot be used as a shelter for residents of Hope Haven Homes.

***APPLICANT:***

Hope Haven Homes Family Rehabilitation Centre, owner.

**LOT SIZE AND AREA:**

The subject lands have:

- a frontage of 28.34 metres (92.67 feet) on Montclair Avenue;
- a frontage of 10.16 metres (33.33 feet) on Ottawa Street South; and,
- a lot area of 286.94 m<sup>2</sup> (3,088.69 square feet).

**LAND USE AND ZONING:**

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	Administration and counselling offices for Hope Haven Homes	"D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District modified.
<u>Surrounding Lands</u>		
to the north	Single and two family dwellings	"D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District.
to the south and east	Single family dwellings	"D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District.
to the west	Shelter bed units for Hope Haven Homes	"D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District.



## OFFICIAL PLAN:

The subject lands are designated "Residential" on Schedule 'A' - Land Use Concept of the Official Plan. The following policies apply:

- "A.2.1.1      The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
  
- A.2.1.3      Within areas designated RESIDENTIAL, land uses compatible to dwellings and deemed necessary by Council to serve the needs of local residents will be permitted, including, but not limited to:
  - ii)      Schools, churches and similar institutional uses less than .4 hectare in size, in accordance with the provisions for Major Institutional Uses as set out in Subsection A.2.6 of this Plan;
  
- A.2.1.8      It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.
  
- C.7.3      Council will ensure that the local RESIDENTIAL ENVIRONMENT is of a condition and variety satisfactory to meet the changing needs of area residents. Accordingly, Council will:
  - v)      Support the concept of an accessible RESIDENTIAL community throughout Hamilton and will encourage the development of a wide range of RESIDENTIAL care and short-term facilities through appropriate recognition in the Zoning By-law;"

The subject lands are less than 0.4 ha in area. The proposed use would not conflict with the intent of the "Residential" designation of the property.

The subject lands are also situated in Special Policy Area '1b' on Schedule 'B' - Special Policy Areas of the Official Plan. The following policy applies:

"A.2.9.1.1 The lands shown on Schedule "B" as SPECIAL POLICY AREA 1 lie within the recommended NIAGARA ESCARPMENT Planning Area. To implement the proposed Plan for the NIAGARA ESCARPMENT, SPECIAL POLICY AREA 1 is subdivided as shown on Schedule "B" into Areas '1a' and '1b', for which the following provisions will apply:

- ii) It is intended that development in Area '1b' will have a minimal impact on the adjacent ESCARPMENT (Area '1a'). Accordingly, the nature of development, as defined in Schedule "A" for this Area, will be at a density, scale and height which is compatible with the ESCARPMENT."

The proposal complies with the intent of the Official Plan.

#### NEIGHBOURHOOD PLAN:

There is no approved Neighbourhood Plan for the Delta West Neighbourhood.

#### COMMENTS RECEIVED:

- The Hamilton Region Conservation Authority, the Traffic Department and the City Clerks Department (Licence Division) have no comment or objection.
- The Building Department advises:
  - "1. A Short-Term Care Facility is not a permitted use in a "D" District.
  2. If this use is approved by the Planning and Development Committee, the following variances will be required.
  3. A 180m radial separation distance is required from the lot line of 992 Montclair Avenue to the lot line of 984 Montclair Avenue.
  4. Based on the application, it appears that two (2) beds are proposed, therefore one (1) parking and manoeuvring space appears to be able to be provided on the lot.
  5. A lot width of 12.0m and a lot area of 360.0m is required.
  6. Section 1(b) of By-law 89-336 shall be repealed."

- The Department of Social Services advises:

"...we have purchase of service contracts with all emergency hostels for victims of family violence. Presently, it is seldom that all applicants for shelter cannot be assisted somewhere in the emergency hostel network. (The emergency back-up has not been accessed due to bed shortages for 6 months.)

In April 1989, we supported a zoning change for this property because Hope Haven Homes assured it would only be used for administrative purposes and for the men's program. Now, however, Regional staff have concerns about the expansion of beds to this facility due to this programming usage and the safety of the residents. Unless this is resolved, the Department cannot support this application."

- The Hamilton-Wentworth Roads Department advises:

"There are public watermains and combined storm and sanitary sewers available to service these lands.

According to the plans submitted by the applicant, an existing chainlink fence encroaches into the Montclair Avenue road allowance. This type of fence encroachment is contrary to the City Streets By-Law and remains at the sole risk of the applicant."

#### COMMENTS:

1. The proposal does not conflict with the intent of the Official Plan.
2. There is no approved Neighbourhood Plan for the Delta West Neighbourhood.
3. The proposal to further modify the existing zoning on the subject lands to permit two emergency shelter bed units, in addition to the existing counselling rooms and administrative offices, cannot be supported on the following reasons:
  - it conflicts with one of the primary goals of the Residential Care Facilities By-law to provide the residents with an opportunity to live in an environment that closely approximates a family situation. The separation of the counselling/administration functions from the shelter component allows residents to live in a family situation rather than a potential crisis-oriented situation;

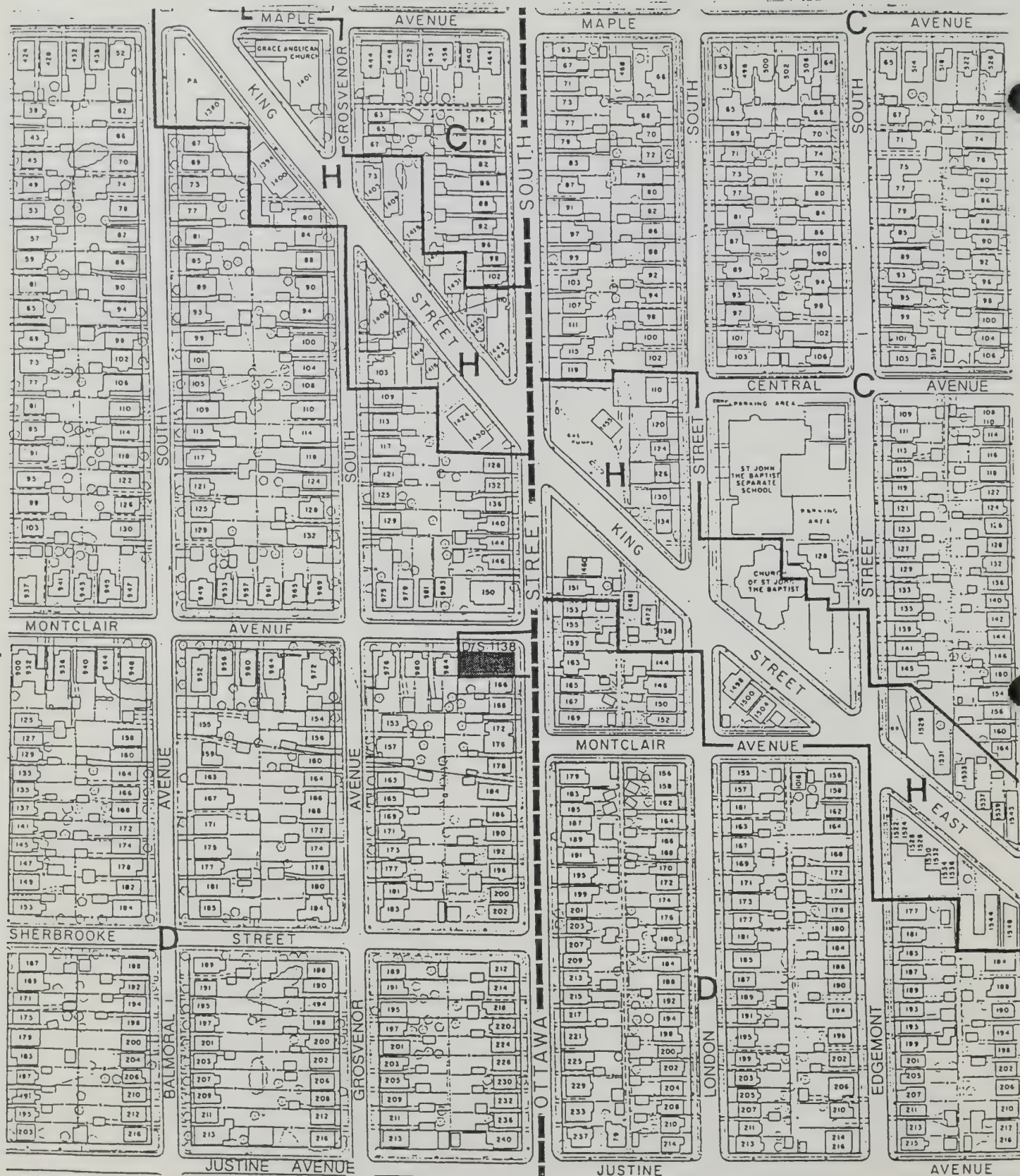


- it is contrary to By-law No. 89-336 which separates the counselling/administrative function from the shelter component and specifically prohibits the use of 992 Montclair Avenue for the shelter of residents at Hope Haven Homes to ensure the spirit of the Residential Care Facilities By-law is met; and,
- as noted in the Social Services Department's comments, it appears there is no demonstrated need for additional shelter bed units as the emergency back-up has not been used due to bed shortages in six months.

**CONCLUSION:**

Based on the foregoing, the application cannot be supported.

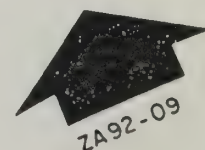
CF/  
ZA-92-09



Legend



Site of the Application



APPENDIX A

111

16.

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**DATE:** 1992 September 17


**REPORT TO:** Planning and Development Committee

**FROM:** Tina Agnello, Secretary  
Planning and Development Committee

**SUBJECT:** Making Cities Livable Conference - 1992 March 8 - 12,  
Charleston, South Carolina

**RECOMMENDATION:**

- (a) That the Chairperson or his designate be authorized to attend a workshop to take place on 1993 March 8 to 12 in Charleston, South Carolina; and,
- (b) That cost for attendance be allocated to Alderman Travel Account No. CH55201-10010 from the 1993 operating budget.



**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Cost to be charged to Alderman Travel Account #CH55201-10010 from the 1993 operating budget.

**BACKGROUND:**

Conference Outlined as attached.



## Associates of the IMCL Council

Robert A. Aldrich, MD, Clin. Prof. of Pediatrics, Univ. of Washington, Seattle, WA. U.S.A. Peter Breitling, Univ. Prof. of Arch., Graz, AUSTRIA. Mayor Antonio Casellati, Former Mayor, Venice, ITALY. Derek Drummond, Dean, School of Arch., McGill Univ., Montreal, CANADA. Wolf von Eckardt, Arch. and Urb. Design Critic, U.S.A. Ben Farmer, Dean, Soc. and Env. Sci., Newcastle Univ., U.K. Andreas Feldtkeller, Director, Restoration and Planning for the Old City, Tübingen, GERMANY. Jan Gehl, Royal Danish Acad. of Fine Arts, Copenhagen, DENMARK. Rod Hackney, Past Pres., Int. Union of Arch., Macclesfield, U.K. Mayor Dietmar Hahlweg, Erlangen, GERMANY. Michal Hexner, Prof., Inst. of Urbanism, Czech. Tech. Univ., Prague, CZECHOSLOVAKIA. Don Robert Johnson, Sen. Leader, Ethical Culture Society, New York, U.S.A. Jaques Kaswan, Pres. Urban Alternatives, Berkeley, CA, U.S.A. G.E. Kidder Smith, Arch. Critic and Historian, New York, U.S.A. Gianni Longo, Pres., Urban Initiatives, New York, U.S.A. Frederick Meyers, MD, Prof. of Pharmacology, Univ. of California, San Francisco, CA, U.S.A. Rolf Monheim, Prof. of Urb. Geography, Bayreuth Univ., GERMANY. Peter Novak, Director, Med. Sociology Dept., Univ. of Ulm, Ulm, GERMANY. Ray Oldenburg, Prof. of Sociology, Univ. of W. Florida, Pensacola, FL, U.S.A. Patrick J. Quinn, Former Pres., Assoc. of Colleg. Schools of Arch., Troy, NY, U.S.A. James W. Rouse, Community Developer, Columbia, MD, U.S.A. Edoardo Salzano, Pres., Istituto Nazionale di Urbanistica, Rome, ITALY. Edward C. Sylvester, Jr., Staff Director, House Committee on D.C., U.S. Congress, Washington, D.C., U.S.A. Benjamin Thompson, Arch., AIA Gold Medal Award 1992, Cambridge, MA, U.S.A. Jane Thompson, B. Thompson and Assoc., Cambridge, MA, U.S.A. Hartmut Topp, Prof. of Trans. Planning, Univ. of Kaiserslautern, GERMANY.

Many of the listed above will speak at the conference.



*City of Charleston*

*Joseph P. Riley, Jr.*  
*Mayor*

RECEIVED  
SEP 09 1992  
SEP 3 1992  
14th International  
Making Cities Livable Conference

March 8-12, 1993  
CITY CLERK Charleston, South Carolina

I am delighted to assist in sponsoring another Making Cities Livable Conference in Charleston next March. It will be great to have another conference in Charleston. It will be wonderful for all of us in the City, and good for the Making Cities Livable movement as well.

Here, together, we will be discussing the future of our cities and how we can make them places of lasting value for the people who live in and use them.

This beautiful city is at its best this time of the year. You will have an opportunity to tour our historic houses and neighborhoods, gardens and plantations, and work with some of the leading urban planners and thinkers in the United States and Europe. We will be discussing a wide range of important issues from low-income housing and historic preservation to public markets and tourism management.

Joseph P. Riley, Jr.  
Mayor, City of Charleston

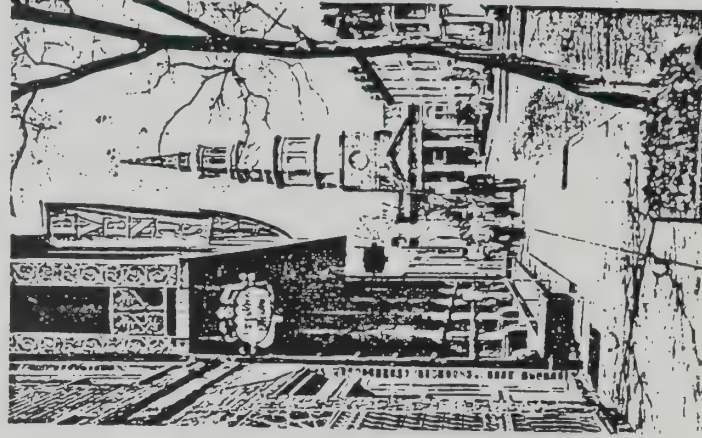
## Why Charleston

Charleston is one of North America's most livable cities, small scale, walkable, and filled with unexpected delights, hidden gardens, and historic vistas. It's citizens share a "communal eye", a shared sense of urban aesthetics that generated the first historic preservation movement in the U.S.. Charleston's inhabitants are proud of their city, sociable, and hospitable to visitors. In March Charleston is mild and sunny, the air already perfumed with spring flowers.

See H. Crowhurst Lennard  
For the Conference Organizers

International Conferences for urban designers, architects, city planners, developers, historic preservationists, and others committed to making cities livable.

At this Conference practitioners and scholars share insights gained from the experience of some of America's and Europe's most livable cities.





Preliminary Program

Monday, March 8  
10:00-12:00 Registration, Omni Hotel, Charleston Place  
2:00- 5:00 Registration  
5:30- 7:30 Opening Reception

Tuesday, March 9

9:00- 9:30 Welcome: Mayor Joseph P. Riley Jr.  
9:30-11:00 Introduction to the Conference  
11:30-12:30 Saving Our Cities  
12:30- 2:30 Conference Awards Luncheon  
2:30- 4:00 Concurrent Panel Sessions  
Recreating the City Center  
City Case Studies  
4:30- 6:00 Concurrent Panel Sessions  
Defining Downtown  
City Case Studies  
6:30 Social Program

Wednesday, March 10

9:00-10:30 City Identity, Vitality and Community Participation  
11:00-12:30 Design of Public Places  
2:30- 4:00 Concurrent Panel Sessions  
Urban Design Guidelines  
City Case Studies  
4:30- 6:00 Concurrent Panel Sessions  
Growth Management  
The Ecology of the City  
6:30 Social Program

Thursday, March 11

9:00-10:30 Concurrent Panel Sessions  
Financing Downtown  
Development  
Issues in Restoration  
1:00-12:30 Concurrent Panel Sessions  
Innovative Affordable Housing  
Village Model of Urban Development  
2:30- 4:00 Concurrent Panel Sessions  
Economics of City Revitalization  
Paper Sessions

4:30- 6:00 Concurrent Panel Sessions  
Traffic and Urban Livability  
Paper Sessions

Friday, March 12

9:00-10:30 Concurrent Panel Sessions  
Urban Animation  
Paper Sessions  
11:00-12:30 Concurrent Panel Sessions  
Balancing Resident and Tourism Needs  
Paper Sessions  
12:30- 3:00 Social Program

**Social Program** The social program will offer:  
Opening Reception; Conference Awards Luncheon; Reception at Gibbes Art Gallery; walking tours of historic Charleston mansions; visits to plantation gardens (Cypress Gardens, Middleton Place, Boone Hall); carriage tours; harbor cruise and visit to Fort Sumter. Two receptions and conference luncheon included in registration fee.

**Cities of Vision Exhibit and Awards** Cities are invited to exhibit recent efforts to make their city more livable for all inhabitants. Awards will be made in specific fields: Developing Community Vision; Design Guidelines; Downtown Revitalization; Design of Usable Urban Places; Rebuilding Community. For more information and application form contact Conference Organizer.

**Conference Papers** Those wishing to present papers or case studies, or serve as a moderator, should send a 100 word abstract or letter for consideration before October 1, 1992 to the Conference Organizer.

**Hotel Accommodations** Special conference rates are available from: The Omni Hotel at Charleston Place, 803-722-4900 or 800-THE-OMNI; and The Mills House Hotel, 803-577-2400 or 800-874-9600.

For more information contact:

Suzanne H. Crowhurst Lennard Ph.D.(Arch.)  
Organizer, I.M.C.L. Conference  
P.O. Box 7586,  
Carmel, California 93921, U.S.A.  
FAX: 408-624-5126

**Registration** Early registration fee is \$300 if postmarked before September 1; \$340 before October 15; \$400 before December 1; \$460 before January 15; \$490 after January 15. Spouse registration \$85. Refund less \$50 processing fee if cancellation received postmarked before December 15.

**I.M.C.L. Council Membership** Private or public organizations are invited to join the International Making Cities Livable Council. Members receive the Making Cities Livable Newsletter, reductions on Council Publications and slides, and 50% reduction on registration fee for up to two persons. Current membership is \$315 (one year), or \$550 (two years).

Conference Registration Form

Conference Fee: Before Sept. 1 - \$300  
Before Oct. 15 - \$340  
Before Dec. 1 - \$400  
Before Jan. 15 - \$460  
After Jan. 15 - \$490  
Spouse registration - \$85  
I.M.C.L. Council Membership - \$315 (1 year)  
- \$550 (2 years)

Total enclosed \$ \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax: \_\_\_\_\_

Spouse name \_\_\_\_\_

Make check payable to: Making Cities Livable Conference. All checks must be in U.S. dollars, payable on a U.S. bank.

Send this form and check to:

Suzanne H. Crowhurst Lennard Ph.D. (Arch.)  
Organizer, I.M.C.L. Conference  
P.O. Box 7586, Carmel, California 93921, U.S.A.

## SLIDE SETS

Slide sets that illustrate essential features of livable cities, selected from the IMCL Council's extensive slide library. The sets are accompanied by detailed descriptions and background information for each slide.

# of  
sets

1. **Appropriate Urban Architecture** ( )  
(13 slides) \$78  
Continuing and developing local traditions; examples of appropriate new architecture; architecture that "fits" the city's architectural heritage in scale, urban texture, proportions and materials.
2. **The Carpet of the City** ( )  
(12 slides) \$72  
Paving the floor of the city for walking; designs using local materials; giving sense of place; recording history and tradition; designs that delight.
3. **Traffic Quietening by Design** ( )  
(12 slides) \$72  
Paving, planting, bollards to reduce traffic speed and impact; design for "living streets"; intersection designs to reduce speed.
4. **Seating in the City** ( )  
(18 slides) \$108  
Hospitable seating, formal and informal; designs to encourage social life; seating that serves different population groups.
5. **Outdoor cafes** ( )  
(10 slides) \$60  
Hospitable outdoor cafes to facilitate social life and revitalize downtown; seating and umbrella designs.
6. **Community Festivals** ( )  
(15 slides) \$90  
Developing sense of community and enlivening the city; neighborhood and group identity through costume, scarves, themes; the role of individual and group skills; flower festivals, Palio, Fasnacht, Carnival.

7. **Farmers Markets** ( )  
(12 slides) \$72  
Europe's best farmers markets; essential elements; role in enlivening the city; display technology and aesthetics.
8. **Children in the City** ( )  
(16 slides) \$96  
Need for traffic free spaces; what the child learns in the city; using streetscape details for play; role of sculptures and water in play.
9. **Recent Art in Public Places: Europe** ( )  
(12 slides) \$72  
Public art that celebrates local traditions, occupations and mythology; combining humour and function; sculptures for the blind and disabled; architecture as art.
10. **The Child and Public Art** ( )  
(10 slides) \$60  
Art that encourages participation and learning; climbing, sliding; touching, moving, getting wet; children's stories and local legends.
11. **Successful Urban Spaces—NEW** ( )  
**Squares**  
(14 slides) \$84  
The heart of the city; purpose and functions; designs for public life; essential elements; Europe's best and lesser known examples.
12. **Successful Urban Spaces—NEW** ( )  
**Streets**  
(14 slides) \$84  
Creating a sense of place; essential design and management elements; the lively street at night; analysis of most successful European streets.
13. **Successful Urban Spaces—NEW** ( )  
**Waterfronts**  
(14 slides) \$84  
How European cities provide for access and play; active and passive water activities; water celebrations; waterfront design details.

14. **Water in the City** ( )  
(12 slides) \$72  
Imaginative sculpture fountains; rediscovered streams and creeks; the role of water; refreshment and play.
15. **Nature in the City** ( )  
(11 slides) \$66  
Good designs for planters and arbors; providing shade; softening hard streets and hiding bad architecture; mini parks and gardens.
16. **Architectural Details and NEW** ( )  
**Decorations**  
(12 slides) \$72  
Painted facades; stone and stucco sculptures and reliefs; how buildings meet the sky; decorative wood frames; local colour and texture.
17. **Windows, Balconies and Doors** ( )  
(12 slides) \$72  
Traditional designs to enhance use; adaptable shutter designs; french windows; window and door surrounds; balconies and roof gardens.
18. **City Street Facades and Signage** ( )  
(12 slides) \$72  
Continuity and scale; street level emphasis; permeability; traditional shop/house facade; beautiful and appropriate signage.
19. **Creating Community—NEW** ( )  
**Mechanisms**  
(8 slides) \$48  
Communal dinners; the role of public art; ritual and celebration.

If more than 10 sets are ordered at the same time, we offer a 25% discount. This offer is valid until July 15, 1992. IMCL Council members may deduct 10% on individual orders; or, an additional 10% (total 35%) if ordering more than 10 sets.



# DOCUMENTATION SETS

Important contributions on selected topics, based on presentations given at twelve International Making Cities Livable Conferences (1985-1992).

- |                                                                                                                                                                                                                                          | # of sets |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 1. Urban Architecture<br>(11 papers) \$60<br>"Architecture as a Social Art"; "Appropriate Architecture"; "The DNA of a Healthy City"; etc.                                                                                               | ( )       |
| 2. Urban Space Design<br>(10 papers) \$60<br>"Urban Space Design and Social Life"; "Sitting in Cities"; "Waterfront Design"; "The Evolution of a Pedestrian Network"; etc.                                                               | ( )       |
| 3. Transportation Planning and Traffic Quietening<br>(9 papers) \$60<br>"Philosophy and Mechanisms of Traffic Calming"; "Alternate Modes of Transportation"; "Ways to More Compatible Urban Transportation"; "Walking and Transit"; etc. | ( )       |
| 4. Affordable Housing<br>(8 papers) \$40<br>"Creating Affordable Housing"; "Charleston's Scatter Site Infill Housing"; "Transforming Old Row in Vancouver, B.C."; "Housing Older People"; etc.                                           | ( )       |
| 5. Community Participation<br>(11 papers) \$60<br>"Community Architecture"; "A Model Urban Design Process for Community Participation"; "Ask the People Who Live There"; "Quintanooqa Venture"; etc.                                     | ( )       |
| 6. Community Festivals<br>(5 papers) \$40<br>"Creating a New Urban Tradition"; "Festivals and Community Identity"; "Charleston's Pocahontas Spoleto"; etc.                                                                               | ( )       |
| 7. Farmers Markets and City Revitalization<br>(8 papers) \$40<br>"Guide for Establishing Farmers Markets"; "The Market as Catalyst"; "New Interest in an Old Idea"; "Europe's Best Farmers Markets"; etc.                                | ( )       |
| 8. Art in Public Places<br>(7 papers) \$40<br>"Towards Criteria for Art in Public Spaces"; "Public Sculpture for Neighborhood Centers"; "The Vietnam Veterans Memorial"; "Children and Public Art"; etc.                                 | ( )       |
| 9. City Case Studies<br>(10 papers) \$60<br>"Portland's Central City Plan"; "Montreal's Downtown Plan. A Critique"; "Behind the Headlines: Making Belfast Livable"; etc.                                                                 | ( )       |
| 10. Recreating the City Center<br>(10 papers) \$60<br>"City Center Regeneration Projects"; "The Reestablishment of the Town Center"; "The Use and Redevelopment of Upper Level Space"; etc.                                              | NEW ( )   |
| 11. New Town Development<br>(9 papers) \$60<br>"New/Traditional Town Planning"; "Village Model of Urban Development"; "Alternate Models of Urban Development"; "The Urbanization of Suburbia"; etc.                                      | NEW ( )   |
| 12. Urban Growth Controls<br>(8 papers) \$60<br>"Design Guidelines as Controls on Development"; "Development Controls for Townscape Conservation"; "Santa Barbara's Growth Management"; etc.                                             | NEW ( )   |
| 13. Urban Design Guidelines<br>(7 papers) \$60<br>"Preparing Urban Design Guidelines"; "Design Criteria for Urban Conservation"; "Strategies for Temporing Urban Scale"; "Harmony Rules"; etc.                                           | NEW ( )   |
| 14. Small Town Revitalization<br>(5 papers) \$60<br>"Effectiveness of the Main Street Program in Evaluating Success"; "The Revitalization of the Georgia Small City"; "Facilitating Reurbanization in two Washington State Towns"; etc.  | NEW ( )   |
| 15. Waterfront Design<br>(5 papers) \$50<br>"Reclaiming the Waterfront through Urban Design Guidelines"; "Waterfronts: Integrating Planning, Design, Programming and Fundraising"; "East Cambridge Riverfront Project"; etc.             | NEW ( )   |
| 16. Nature in the City<br>(6 papers) \$50<br>"Nature in the City: Necessity or Luxury?"; "Greenways"; "Urban Stream Preservation"; "Reclaiming Orphan Silver Parcels"; etc.                                                              | NEW ( )   |

If more than 10 sets are ordered at the same time, we offer a discount of 25%. This offer valid until July 15, 1992. IMCL Council Members may deduct 10% on individual orders; or, an additional 10% (total 35%) if ordering more than 10 sets.

## ORDER FORM

### SLIDE SETS

Please send me the following slide sets: # \_\_\_\_\_

For postage and handling add: for 1-10 sets \$5 (Canada \$10; overseas \$15); for 11 or more sets \$8 (Canada \$15; overseas \$25). All orders are sent US mail certified (Canada and overseas surface registered). If you wish your order sent by Federal Express please check and give your Fed. Ex. number \_\_\_\_\_

### DOCUMENTATION SETS

Please send me the following sets of documentation: # \_\_\_\_\_

For postage and handling add:  
for 1-3 sets add \$10 (Canada \$12; overseas \$15)  
- 4-6 - - \$10 ( - \$18; - \$21)  
- 7-9 - - \$20 ( - \$24; - \$27)  
- 10-12 - - \$25 ( - \$30; - \$33)

If you wish your order sent by Federal Express please check \_\_\_\_\_ and give your Fed. Ex. number: \_\_\_\_\_

Total Enclosed \$ \_\_\_\_\_

Prepaid orders only please. Make check payable to: Making Cities Livable Conference. Check must be in US dollars, payable on a US bank

Name \_\_\_\_\_

Address \_\_\_\_\_

Send to:

IMCL Council, P.O. Box 7586  
Carmel, California 93921, USA  
(408) 626-9080



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1992

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FAX: 546-2095

URBAN MUNICIPAL

GOV 'MENT DOCUMENTS

1992 October 01

**NOTICE OF MEETING**

**PLANNING AND DEVELOPMENT COMMITTEE**

Wednesday, 1992 October 07

9:30 o'clock a.m.

Room 233, City Hall

Tina Agnello, Secretary  
Planning and Development Committee

**A G E N D A:**

**CITY INITIATIVE PUBLIC MEETING**

**9:30 O'CLOCK A.M.**

1. (a) City Initiative 91-G for general text amendments to Zoning By-law No. 6593 to implement the recommendations of the "Housing Intensification Strategy", as adopted by City Council on 1992 June 25.





Submission:

Michael Robinson, c/o The Tenant Resource Centre, 360A Queenston Road,  
Hamilton, Ontario, L8K 1H9

- (b) Provincial Government's Policy Paper on Apartments in Homes  
- Building Commissioner

**10:00 O'CLOCK A.M.**

**2. PARKS AND RECREATION COMMITTEE REFERRALS**

- (a) Modification of Zoning at Beasley Park to allow residential zoning
- (b) William Connell Park rezoning
- (c) Rescinding of Rezoning regarding Bernie Arbour Stadium

**3. URBAN DESIGN COMMITTEE - REQUEST FOR CIRCULARIZATION  
ON MUNICIPAL PROJECTS DEALING WITH URBAN DESIGN  
MATTERS - (PREVIOUSLY TABLED)**

Submissions:

- (a) C.A.P.I.C.
- (b) Building Department
- (c) Fire Department
- (d) Law Department
- (e) Traffic Department
- (f) Public Works Department

**4. BUILDING COMMISSIONER**

Ontario Home Renewal Programme - Funding for Disabled

**5. COMMISSIONER OF PLANNING AND DEVELOPMENT**

Site Plan Control Application 92-29, Mr. Russ Makenzie, owner of land located at  
No. 2117 King Street East; Bartonville Neighbourhood





## ZONING APPLICATIONS AND PUBLIC MEETINGS

### 10:30 O'CLOCK A.M.

6. Zoning Application 92-28, Alexander Stoller and Enzo Didiodato, owners, for a change in zoning from "AA" District to "C" District for property located at No. 255 Rymal Road East; Barnstown Neighbourhood
7. Zoning Application 92-10, John Foss, owner, for a modification to the established "E-3" District regulations for property located at No. 113 Charles Street; Durand Neighbourhood

### 10:45 O'CLOCK A.M.

8. Zoning Application 92-16, Landawn Shopping Centres Limited, owner, for a further modification to the "HH" District regulations for property located at No. 350 Centennial Parkway North; Lakely Neighbourhood
  - (a) Submission: Karen Frazer, CN Rail, Suite 401, 277 Front Street West, Toronto, Ontario, M5V 2X7
9. Conversion to Condominium Application CD-92-001 under the Rental Housing Protection Act for 515 Main Street East

#### Submissions:

- (a) Shirley Newton, Ministry of Housing, 777 Bay Street, 2nd Floor, Toronto, Ontario, M5G 2E5
- (b) Michael Robinson, c/o The Tenant Resource Centre, 360A Queenston Road, Hamilton, Ontario, L8K 1H9

### 11:00 O'CLOCK A.M.

10. Crown Point West/Stipeley P.R.I.D.E. Programme; Resolution of Truck Traffic problem at Glendale Spinning Mills
11. OTHER BUSINESS
12. ADJOURNMENT



## OUTSTANDING LIST

### PLANNING AND DEVELOPMENT COMMITTEE

<u>ITEM</u>	<u>ORIGINAL DATE</u>	<u>ACTION</u>	<u>STATUS</u>
Mobile Signs		Planning	Report Pending
C.I.90-F - Parking requirements in the Central Business District	1990 July 25	Planning	Draft Report being finalized. Consult with Parking Authority, Traffic, Building and Cash-in-Lieu of Parking Committee and report back
Site Plan Enforcement Procedures	1991 Jan. 23	Building, Regional Engineering, Planning	Report back on alternative proposals
City Initiative - Wm. Connell Park, Redbirds Double "A" facility	1991 April 24	Planning	To be processed
ZA 88-129 - South-east corner of Upper Wentworth Street & Stone Church Road East	1991 April 24	Regional Engineering/ Ward 7 Aldermen	Tabled until 1991 October to determine road requirements and Ward Aldermen to hold
C.I. - Mohawk Sports Park & Bernie Arbour Stadium	1991 May 22	Planning	To be processed
Conditions of conversions - separate utility controls	1991 June 19	Building	Report pending
ZA 91-43 - 145 MacNab Street North	1991 October 23	Planning	a neighbourhood Tabled to resolve design issues and height of building.
Site Plan Control Application DA-91-50 - 45 Hempstead Drive	1992 January 8	Planning	Tabled - Applicant directed to proceed through Committee of Adjustment





<u>ITEM</u>	<u>ORIGINAL DATE</u>	<u>ACTION</u>	<u>STATUS</u>
Grading Requirements	1992 February 19	Roads Department	Report Pending
Roof Water Connections	1992 March 25	Building	Report Pending
Request regarding Urban Design Committee Circulation on municipal projects	1992 March 25	Municipal Departments	Tabled - to solicit comments from - Municipal Depts & standing committees
11-13 Holmes Avenue 19th century log home	1992 June 24	Planning	Report pending
ZA-91-12 25 Hess Street South	1992 June 24	Applicant	Tabled for negotiations between parties
ZA-92-03 212 James Street South	1992 June 24	Applicant Harper Brothers Holdings	Tabled to submit amended application
ZA-92-22 860 Upper Wentworth Street	1992 July 22	Applicant R. P. Estrabillo	Tabled to resolve neighbours concerns
Site Plan Control Application DA-92-99 at 2117 King Street East	1992 August 19	Planning	Tabled to invite applicant to attend meeting
ZA-92-17 1123, 1131 and 1135 Stone Church Road East	1992 August 19	Alderman Charters	Tabled for ward aldermen to get public input





<u>ITEM</u>	<u>ORIGINAL DATE</u>	<u>ACTION</u>	<u>STATUS</u>
ZA-92-19 412 Charlton Avenue West	1992 September 23	Traffic	Tabled for review of traffic conditions
ZA-92-08 1907 King Street East	1992 September 23	Applicant Faith Evangelical Lutheran Church	Tabled to resolve neighbours concerns
Zoning Verification/ Property Reports	1992 September 23	Building	Report to Committee on time required for requests and fees

1992 October 01



**PLANNING AND DEVELOPMENT COMMITTEE**

**WEDNESDAY, 1992 OCTOBER 07**

**CONSENT AGENDA**

**A. ADOPTION OF THE MINUTES**

Minutes of the meeting held 1992 September 23

**B. DIRECTOR OF PROPERTY**

Lease of City owned land to Philip Enterprises Inc.

**C. BUILDING DEPARTMENT**

**(a) Demolitions:**

- (i) 36 Cliff Avenue**
- (ii) 127-129 Bay Street North**

**(b) Commercial Facade Loan Programme - 252 Ottawa Street North**

**D. INFORMATION REPORTS**

Commissioner of Planning and Development - Site Plans for Approval





A.

Wednesday, 1992 September 23  
9:30 o'clock a.m.  
Room 233, City Hall

The Planning and Development Committee met.

There were present: Alderman D. Drury, Chairperson  
Alderman F. Eisenberger, Vice-Chairperson  
Mayor R. Morrow  
Alderman M. Kiss  
Alderman W. McCulloch  
Alderman D. Wilson  
Alderman B. Charters  
Alderman H. Merling  
Alderman F. D'Amico

Also present: Alderman D. Ross  
Alderman D. Agostino  
V. Abraham, Planning Department  
P. Mallard, Planning Department  
J. Hickey-Evans, Planning Department  
B. Janssen, Planning Department  
L. Lanza, Planning Department  
V. Grupe, Planning Department  
J. Sakala, Planning Department  
D. Powers, Law Department  
P. Lampman, Building Department  
E. Chajka, Roads Department  
C. Unelli, Transportation/Environmental Services  
R. Karl, Traffic Department  
T. Agnello, Secretary

1. CONSENT AGENDA

Prior to voting on the consent agenda, Item D(a), D(c)(iii), D(c)(v) and E were pulled from the agenda for discussion.

A. ADOPTION OF THE MINUTES

The minutes of the meeting held 1992 September 23 were approved as circulated.

B. DIRECTOR OF PUBLIC WORKS

International Village Business Improvement Area - 1992 Schedule of Payments

As recommended by the Director of Public Works in a report dated 1992 September 16, the Committee recommended to Council as follows:

That the 1992 Schedule of Payments for the International Village Business Improvement Area be amended as follows:

February 01	\$ 9,893.33
April 01	\$ 9,893.33
June 01	\$ 9,893.33
August 01	\$ 9,893.33
October 01	\$19,786.67

C. SENIOR DIRECTOR, ROADS DEPARTMENT

(a) **Rymal Square Estates - Phase 3, Cash-in-lieu of 5% Parkland Dedication**

As recommended by the Senior Director, Roads Department, in a report dated 1992 September 15, the Committee recommended to Council as follows:

That the City of Hamilton accept the sum of \$93,750 as cash payment in lieu of the 5% land dedication in connection with Rymal Square Estates - Phase 3, Hamilton, located between Upper Wentworth Street and Upper Sherman Avenue in the Butler Neighbourhood, being the cash payment required under Section 51 of the Planning Act.

(b) **Primecan Estates, Paradise Gate Estates, The Gardens of Rymal - Cash-in-lieu of 5% Parkland Dedication**

As recommended by the Senior Director, Roads Department, in a report dated 1992 September 14, the Committee recommended to Council as follows:

(i) That the City of Hamilton accept the sum of \$24,690 as cash payment in lieu of the 5% land dedication in connection with "Primecan Estates", located on the west side of Upper Wellington Street and on the south side of the proposed east/west portion of the Red Hill Expressway, in the Jerome Planning Neighbourhood.

(ii) That the City of Hamilton accept the sum of \$30,160 as cash payment in lieu of the 5% land dedication in connection with "Paradise Gate Estates - Phase 1", located on the north side of Rymal Road West, east of Upper Paradise Road, in the Falkirk East Planning Neighbourhood, Hamilton, this being the cash payment required under Section 50 of the Planning Act.

(iii) That the City of Hamilton accept the sum of \$28,500 as cash payment in lieu of the 5% parkland dedication in connection with "The Gardens of Rymal Phase 3", and the sum of \$30,708 as cash payment in lieu of the 5% parkland dedication in connection with "The Gardens of Rymal - Phase 4", both located on the west side of Upper Wentworth Street, south of Rymal Road East, in the Chappel West Planning Neighbourhood, Hamilton, these being cash payments required under Section 50 of the Planning Act.



**D. BUILDING COMMISSIONER****(a) Request for 48 hour express service for issuance of zoning verification/property reports**

A discussion ensued regarding the time required to process a request for a zoning verification/property report.

Mr. Lampman advised that simple requests which are usually residential are processed in 2 to 3 days while the more complicated requests, which are usually commercial, take 7 to 8 days to process.

Alderman Merling informed the Committee that the City of Toronto charges differential fees for residential and commercial reports.

Alderman Wilson and Alderman Charters suggested the increased fees on a trial basis for 6 months.

After discussion, it was moved that the recommendation of the Building Commissioner dated 1992 September 11 be recommended to Council as amended as follows:

- (i) That the Building Commissioner be authorized and directed to collect a new administrative charge being a \$120 fee for requesting 48-hour express service to obtain a Zoning Verification/Property Report;
- (ii) That Building staff be directed to report back on this in 6 months, and;
- (iii) That Building staff prepare a report on the feasibility of charging differential fees for residential and commercial applications.

**(b) Ontario Home Renewal Programme Grant/Loan(s)**

As recommended by the Building Commissioner in a report dated 1992 August 21, the Committee recommended to Council as follows:

That the Building Department, Loans Division, be authorized to process the following grant/loan(s) for:

- (i) Victor & Gladys Woodfine - 4 Hilton Street
- (ii) Frances & Walter Somers - 529 Roxborough Avenue

in the amounts not to exceed \$7,500. The actual amount of grant or loan to be determined by inspection of the property under the Property Standards By-law 74-74 and pursuant to Regulation 506 (R.R.O. 1980) under the Housing Department Act for the Ontario Home Renewal Programme.

**(c) Demolition Permits**

As recommended by the Building Commissioner in various reports, the Committee recommended to Council as follows:

That the Building Commissioner be authorized to issue demolition permits for the following properties:

- (i) 330 Charlton Avenue West
- (ii) 322 Charlton Avenue West
- (iii) 493 Burlington Street East
- (iv) 1134 Upper Wentworth Street
- (v) 1086 Upper James Street
- (vi) 1170 Garth Street
- (vii) 261-263 Wellington Street North

(d) **Demolition Permit (iii) - 590 Stone Church Road**

The Committee was in receipt of a report from the Building Commissioner dated 1992 September 14.

In response to a question from Alderman Merling, Mr. Lampman advised that a single family home is to be erected on the lot.

After brief discussion, the Committee moved to recommend to Council as follows:

That the demolition permit for 590 Stone Church Road East be issued on the condition that the applicant for the permit construct and substantially complete a new single family dwelling on the subject property by not later than two years from the date of the issuance of the demolition permit. As a further condition, upon failure to complete the new building within the two year period, the City Clerk shall be entitled to enter on the collector's roll to be collected in the like manner of municipal taxes the sum of \$20,000 and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential building was issued.

(e) **Demolition Permit (v) - 1134 Upper Wentworth Street**

A brief discussion ensued on this property. It was determined that the Regional Engineering Department would have additional information on the property.

**E. COMMISSIONER OF PLANNING AND DEVELOPMENT**

**Underground Parking Study - Terms of Reference**

Alderman Kiss advised that Lynda Morris will be working with staff to develop the policy study.

In response to a question from Alderman Charters, Mr. Abraham explained that money is being allocated from a surplus account.

As recommended by the Commissioner of Planning and Development in a report dated 1992 September 15, the Committee recommended to Council as follows:

- (a) That the Residential Underground Parking Study, as per the attached Study Proposal, attached hereto as Appendix "A", be undertaken; and,
- (b) That the Planning and Development Department be authorized to hire Lynda Morris, Urban Safety Consultant, to undertake the study, at a cost not to exceed \$15,000.

**F. INFORMATION REPORTS**

The Committee was in receipt of the following reports:

- (a) City Solicitor: Rent Control Act, 1992
- (b) Building Commissioner: 74 Charlton Avenue East - Illegal Demolition
- (c) Commissioner of Planning and Development: Approved Site Plan Control

**REGULAR AGENDA****2. CHIEF ADMINISTRATIVE OFFICER AND DIRECTOR OF LOCAL PLANNING****Draft Mission Statement - Hamilton Harbour Commissioners**

As recommended by the Chief Administrative Officer and the Director of Local Planning in a report dated 1992 September 11, the Committee recommended to Council as follows:

- A. That the Hamilton Harbour Commissioners be requested to revise the wording of the following draft Mission Statement:

"The Hamilton Harbour Commissioners is a vital part of Canada's national transportation system. Our Mission is to provide leadership in the regulation, operation and development of the Port of Hamilton.

We are responsive to the needs of our customers and the public when regulating navigation and use of the Harbour; in the shipping of cargo; by developing commercial, industrial and recreational uses; and by contributing to the economic well-being of Canada and our surrounding market area, while doing so on a financially self-supporting basis.

We provide reliable service of high quality. Our customers, employees and all public and private organizations are treated with honesty, flexibility and fairness. We work within the community and with other agencies to improve the Port of Hamilton and protect its natural environment.

to more clearly reflect their membership with the City of Hamilton by adding "which relate primarily to bona fide shipping and navigation and subject to the City of Hamilton's regulations for those lands which do not relate primarily to shipping and navigation."

- B. That the City Clerk be directed to forward this report to the Hamilton Harbour Commissioners.

**3. ALDERMAN D. ROSS****Request for Public Meeting regarding Closure of Walkway between Lynwood and Wendover Streets**

As per the request of Alderman Ross, the Committee resolved to approve that a public meeting be held regarding closure of a walkway between Lynwood and Wendover Streets.



4. COMMISSIONER OF PLANNING AND DEVELOPMENT

**Residential Enclaves - Process for the Neighbourhood Planning Study**

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 September 14.

Joanne Hickey-Evans explained that upon the direction of Council, staff has developed a two stage process which will identify and involve stakeholders and include a public meeting process.

It is the recommendation of Planning Department staff to leave the enclaves as they are presently recognized as residential pockets in industrial areas.

Alderman Eisenberger was concerned that a lengthy process may be initiated. The residents want an answer and he, therefore, does not feel that further meetings are warranted. He suggested the recommendation not be approved.

Alderman Merling, Alderman Charters and Alderman Drury concurred and agreed that the existing designation should be retained.

Mr. Abraham stated that presently, residential uses are conforming. He felt the status quo should be preserved.

Following discussion, the Committee resolved that the matter be tabled indefinitely.

5. CONFIDENTIAL AGENDA

The Committee moved into closed session to discuss a legal matter and reconvened immediately thereafter with no report.

6. GO TRANSIT CENTRE

(a) **Information Report on Advisory Committee: Commissioner of Planning and Development**

Alderman McCulloch gave an updated report of the project to the Committee. He stated that the residents are concerned over the compatibility of the development with the surrounding environment. A meeting is to be held this evening which will provide additional information required.

The Committee moved that the information report of the Commissioner of Planning and Development dated 1992 September 14 be received.

(b) **Urban Design Committee**

The Committee was in receipt of a report from the Chairperson of the Urban Design Committee dated 1992 September 11.

Mr. Hill encouraged the Planning and Development Committee to engage a consultant at the earliest opportunity to review and present a case regarding the Go Centre.

Victor Abraham advised that there is no money to conduct the study but terms of reference can be developed in-house.

Alderman Eisenberger stated that he is not in favour of increased parking in the area since it is contrary to the notion of an urban transit system.

After brief discussion, the Planning and Development Committee resolved:

- (a) That the Planning Department staff be directed to develop terms of reference for a consultant regarding the review of the Go Centre; and,
- (b) That the terms of reference include estimated costs for such a study.

7. L.A.C.A.C.

**Comments on the Ontario Heritage Act Review**

As recommended by the Secretary of L.A.C.A.C. in a report dated 1992 September 15, the Committee recommended to Council as follows:

- (a) That the general proposals put forward by the Minister's Advisory Committee on New Heritage Legislation be strongly supported, particularly in respect to the strengthening and streamlining of the designation process for heritage properties under the Ontario Heritage Act;
- (b) That the two new proposals for the designation process, specifically the priority rating (suggested wording instead of grading requirement) for heritage properties and the possibility of compensation to be paid to the owner of a designated property under special conditions not be supported;
- (c) That the proposed recommendations respecting the expansion of the legislative mandate to include movable heritage, intangible heritage, and heritage facilities be referred to the appropriate municipal Departments and Committees, such as the Hamilton Historical Board, the Department of Culture and Recreation, the Hamilton Library, the Hamilton Art Gallery, etc. for comment;
- (d) That the additional incentives for heritage conservation found in the Ministry's previous review in 1990 entitled "Proposals for Legislation", be supported in the present proposal;
- (e) That the Minister's Advisory Committee on New Heritage Legislation be advised of LACAC's request to have an opportunity to comment further on the policy before it is submitted for final approval; and, when available, on the draft Regulations which will be crucial to the successful implementation of the new heritage legislation.
- (f) That a letter be sent to the Minister's Advisory Committee on New Heritage Legislation advising them of the aforementioned recommendations with a copy being sent to the Association of Municipalities of Ontario.

8. **City Initiative 92-C, for a change in zoning from "AA" District to "DE-3" District for lands municipally known as No. 240 Rymal Road East; Allison Neighbourhood**

Submission: Janice Lattin, TransCanada Pipelines, Calgary, Alberta.

As recommended by the Commissioner of Planning and Development in a report dated 1992 September 8, the Committee recommended to Council as follows:

That approval be given to City Initiative 92-C Regional Municipality of Hamilton Wentworth, owner, for a change in zoning from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District, modified, to permit development of the subject lands (Block "3" on Appendix "C") in conjunction with the abutting lands to the west (Block

"2" on Appendix "C"), which are to be developed for townhouses and/or multiple dwellings (stacked townhouses), for part of property municipally known as 240 Rymal Road East, as shown on the attached map marked as Appendix "B", on the following basis:

- (a) That the subject lands be rezoned from "AA" (Agricultural) District to "DE-3" (Multiple Dwellings) District;
  - (b) That the "DE-3" (Multiple Dwellings) District regulations as contained in Section 10C of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variance as a special requirement:
    - (i) That Section 10E(2)(a)3. of Zoning By-law No. 6593 shall not apply to the land fronting onto Rymal Road East or Upper Wellington Street.
  - (c) That Schedule "A" of By-law 92-211 be amended by adding the subject lands to Block "2";
  - (d) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1278a, and that the subject lands on Zoning District Maps E-9D and E-18E be notated S-1278a;
  - (e) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Maps E-9D and E-18E for presentation to City Council;
  - (f) That the proposed change in Zoning is in conformity with the Official Plan for the Hamilton Planning Area;
  - (g) That the Allison Neighbourhood Plan be amended by redesignating the subject lands from "Attached Housing" to "Low Density Apartments".
9. **Zoning Application 92-20, David K. Lord and Eileen R. Booty, owners, for modification to the established "E" District regulations for property located at No. 173 Bold Street and No. 20 Wheeler Place; Durand Neighbourhood**

Submissions were received from the following people:

- (a) Joseph Vamosi, 56 East Avenue North, Hamilton, Ontario
- (b) Jim C. Taylor, Edgecombe Group Inc. 655 Bay Street, Suite 1200, Toronto, Ontario

Carolyn Floroff advised that reference to "single family" in the report should be changed to "one half of a semi" for reference to Block 2.

The applicants were present in support of the application.

As recommended by the Commissioner of Planning and Development in a report dated 1992 September 16, the Committee recommended to Council as follows:

That approval be given to Zoning Application 92-20, David K. Lord and Eileen R. Booty, owners, for a modification to the established "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations, to permit the creation of separate lots for the existing two-family dwelling at 173 Bold Street (Block "1"), and the existing semi-detached dwelling at 20 Wheeler Place (Block "2"), as shown on the attached map marked as Appendix "C", on the following basis:

- (a) That the "E" (Multiple Dwellings, Lodges Clubs, etc.) District regulations as contained in Section 11 of Zoning By-law No. 6593, applicable to Block "1", be modified to include the following variances as special requirements:



- (i) That notwithstanding Section 11(1) of Zoning By-law No. 6593, only a two-family dwelling shall be permitted within the building existing at the date of passing of this By-law;
  - (ii) That notwithstanding Section 11(3) of Zoning By-law No. 6593, the yards existing at the date of passing of this by-law shall apply to the existing two-family dwelling;
  - (iii) That notwithstanding Section 11(4) of Zoning By-law No. 6593, a lot width of at least 7.53 m and a lot area of at least 204.45 m<sup>2</sup> shall be required;
  - (iv) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, a minimum of two parking spaces shall be provided and maintained on the lot within the required front yard for the existing two-family dwelling;
  - (v) That Section 18A(9) of Zoning By-law No. 6593 shall not apply.
- (b) That the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11 of Zoning By-law No. 6593, applicable to Block "2", be modified to include the following variances as special requirements:
- (i) That notwithstanding Section 4.(3)(b) of Zoning By-law No. 6593, one half of a semi-detached, two family dwelling shall be permitted to front onto a public highway (Wheeler Place) having a width of at least 3.66 m;
  - (ii) That notwithstanding Section 11(1) of Zoning By-law No. 6593, only one half of a semi-detached two-family dwelling shall be permitted;
  - (iii) That notwithstanding Section 11(3) of Zoning By-law No. 6593, the yards existing at the date of passing of this By-law shall apply to the existing one half of a semi-detached two family dwelling;
  - (iv) That notwithstanding Section 11(4) of Zoning By-law No. 6593, a lot width of at least 7.33 m and a lot area of at least 163.30 m<sup>2</sup> shall be required;
  - (v) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, a minimum of one parking space shall be provided and maintained on the lot.
  - (vi) That Section 18A(9) of Zoning By-law No. 6593 shall not apply.
- (c) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1286, and that the subject lands on Zoning District Map W-5 be notated S-1286;
- (d) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map W-5 for presentation to City Council;
- (e) That the proposed modification in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

10. **Zoning Application 92-27, 483466 Ontario Ltd. (Jerome Calzonetti), owner, for a change in zoning from "C" District to "RT-20" District for property located at No. 829 Rymal Road East; Eleanor Neighbourhood**

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 September 16.

A submission was received from Doug Cooper of 809 Rymal Road in Hamilton.

John Pellech was present representing the applicant.

Paul Mallard advised that the application proposes to change the use on the subject property from single family to townhouse development with a small community centre, in conjunction with a non-profit housing project to the east. The Planning Department feels that this is an unnecessary extension of townhouses in a single family area. Of 213 notices circulated, 2 residents replied in favour and 1 was opposed.

Mr. Pellech explained that the proposal will be an extension of the adjacent Kiwanis project. He informed the Committee that the community centre has been withdrawn from the application and perhaps an additional unit could be substituted in its place. There is a desire to clean up this space, hence there has been little opposition.

Alderman Merling stated that the proposal will complement the Kiwanis development. He requested that a maximum of 7 townhouses be permitted if the application is approved.

After brief discussion, the Committee moved to recommend the following:

That approval be given to Zoning Application 92-27, 483466 Ontario Limited (Jerome Calzonetti), owner, requesting a change in zoning from "C" (Urban Protected Residential, etc.) District to "RT-20" (Townhouse - Maisonette) District, to permit townhouses on property located at 829 Rymal Road East, as shown on the attached map marked as Appendix "D", on the following basis:

- (a) That the subject lands be rezoned from "C" (Urban Protected Residential, etc.) District to "RT-20" (Townhouse - Maisonette) District;
- (b) That the "RT-20" (Townhouse - Maisonette) District regulations, as contained in Section 10E of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following variance as a special requirement:
  - (i) That notwithstanding Section 10E(7)(a)(i), a maximum of seven (7) townhouse dwelling units shall be permitted.
- (c) That the amending By-law be added to Section 19B of Zoning By-law 6593 as Schedule S-1287, and the subject lands on Zoning District Map E-38D be notated S-1287;
- (d) That the City Solicitor be directed to prepare a by-law to amend Zoning By-law No. 6593, and Zoning District Map E-38D for presentation to City Council;
- (e) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area; and,
- (f) That the Eleanor Neighbourhood Plan be amended by redesignating the subject lands from "Single & Double Residential" to "Attached Housing".

**11. Janet Court - Request for Walkway Closure, Kentley Neighbourhood**

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 September 15.

Bill Janssen explained that the walkway is a link between Janet Court and Eastgate Court which has never been officially opened. On 1992 September 10, a public meeting was held. Residents were concerned over vandalism and noise. Some residents are in favour of a pedestrian link and access.

Alderman Eisenberger informed the Committee that most residents want it closed because it is narrow, dangerous and unsightly.

After brief discussion, the Committee moved to recommend to Council as follows:

- (a) That the Janet Court walkway, as shown on the attached map marked as Appendix "E", be deleted from the Kentley Neighbourhood Plan, and;
- (b) That the request for closure of the walkway be forwarded to the Transport and Environment Committee.

**12. Carpenter Neighbourhood Plan Amendment**

Alderman D'Amico declared an interest by virtue of his father having a financial interest in the property, left the meeting and returned immediately after discussion on this matter was completed.

Bill Janssen explained that since the plan was originated, 643 Rymal Road has come up for sale which will allow for the road to be continued straight through from Upper Paradise Road. He cited two minor amendments to Section "B" of the report.

Serge Manchez was present on behalf of the applicant who is in support of the change. He advised that there will be cost savings to the City.

Russ McCorey asked how the contour of the land would affect the construction costs of the road to which Mr. Abraham replied that the slope will not cause additional costs to be incurred because the slope is the same for both plans of the road construction.

Tom Sullivan of 635 was concerned that his taxes would increase as a result of becoming a corner lot. Alderman Wilson did not feel that assessment is additional for corner lots.

A discussion ensued regarding the erection of the house at 643 Rymal and the timing of the plan for the area.

Santo Boffa of 647 Rymal Road was concerned with drainage. He asked if his property could be further sub-divided for lots to which the Chairperson replied that this cannot presently be determined.

Alderman Kiss inquired about the type of fill placed in this area and if there are any environmental concerns.

Mr. Abraham stated that proper conditions for erection of the road will be met in construction.



As recommended by the Commissioner of Planning and Development in a report dated 1992 September 18 as amended, the Committee recommended to Council as follows:

- A. That the approved Carpenter Neighbourhood Plan, as shown on the attached map marked as Appendix "F", be amended by:
- (a) shifting the extension of Upper Paradise Road 54 metres to the east and associated interior road alignments; and,
  - (b) designating the lands previously designed for the road for "Single and Double" housing.
- B. That approval be given to the revised Subdivision Application 25T-92002, Brusan Developments, owner, to establish a draft plan of subdivision in the area south of Rymal Road West and east of the City limits, as shown on the attached map marked as Appendix "G", subject to the following conditions:
- (a) That approval apply to the revised plan prepared by Planning Initiatives Ltd. dated May, 1992, showing 238 lots and various blocks, revised in red as follows:
    - (i) to provide a 9m sewer easement from Street G to the east limit of the subdivision lands;
    - (ii) to provide a walkway between Lots 101 and 102 (Block 257);
    - (iii) to delete certain reserve blocks and to re-number the remaining blocks;
    - (iv) to provide 2 m x 2 m daylighting triangles at the corner of Lots 86, 143 and 203;
    - (v) to provide 9 m radius transitional curves at the beginning and end of all street bulbs;
    - (vi) to provide street widening adjacent to Rymal Road West to 18.0 m from the centreline (Blocks 255 and 256);
    - (vii) to provide an angle on Street C of less than 120 degrees and a centreline radius of the roadway of 30 m or less;
    - (viii) to provide a block of land shown as 3 m on the north east corner of Lot 13 and 2 m on the south east corner of Lot 13 for roadway purposes;
    - (ix) to provide a 5 m by 5 m daylight triangles at Lots 8 and 177;
    - (x) to realign Upper Paradise Road to reflect the road pattern in the approved Carpenter Neighbourhood Plan and the Blocks and Lots be revised accordingly.
  - (b) That the final plan not be approved until such time as municipal sewers, water and adequate road access are available to service the lands.
  - (c) That the streets and walkway be dedicated to the City of Hamilton as public highways and public walkway in the final plan.

- (d) That the streets be named to the satisfaction of the City of Hamilton and the Regional Municipality of Hamilton-Wentworth.
  - (e) That the final plan conform to the Official Plan and Zoning By-law approved under the Planning Act.
  - (f) That such easements as may be required for utility or drainage purposes be granted to the appropriate authority.
  - (g) That the owner provide the City of Hamilton with a certified list showing the net area and width of each lot and block and total area of the subdivision in the final plan.
  - (h) That the owner convey Block 239 to the City of Hamilton for park purposes.
  - (i) That Blocks 240 to 248, inclusive, be developed only in conjunction with abutting lands.
  - (j) That any dead-ends or open sides of the road allowances created by the final plan be terminated in 0.3 reserves to be conveyed to the City of Hamilton and be held by the City until required for the future extension of the road allowances or development of abutting lands.
  - (k) That the owner satisfy the concerns of the Regional Roads Department with respect to access to Rymal Road West.
  - (l) That the City of Hamilton acquire all the lands necessary for the extension of existing Upper Paradise Road, south of Rymal Road West to provide a street connection to this subdivision and these lands be established and contracted as a public highway.
  - (m) That the owner shall erect a sign in accordance with Section XI of the subsequent subdivision agreement, prior to the issuance of a final release by the City of Hamilton.
  - (n) That the owner agree, in writing, to satisfy all requirements, financial and otherwise, of the City of Hamilton.
- C. That the subdivision agreement be entered into by the Corporation of the City of Hamilton and the owner to provide for compliance with the conditions of approval established by the Hamilton-Wentworth Region with respect to this application, (25T-922002), Brusar Development Corporation, owner, proposed draft plan of subdivision and that the City execute the agreement when the said conditions have been met and the City's share of the cost of installing municipal services has been approved by City Council.
- D. That the Commissioner of Planning and Development for the Regional Municipality of Hamilton-Wentworth be advised of Council's decision.
13. **ZA-92-19, Roland P. Baldessarimi, owner, for a change in zoning from "D" District to "G-3" District for property located at No. 412 Charlton Avenue West; Kirkendall North Neighbourhood**

Submissions were received from the following people:

- (a) Peter Simmons, 382 Charlton Avenue West, Hamilton
- (b) Patricia Simmons, 382 Charlton Avenue West, Hamilton
- (c) Shirley Deans, 409 Charlton Avenue West, Hamilton
- (d) Brian G. Sayer, 64 Chatham Street, Hamilton

- (e) James H. Mann, 404 Charlton Avenue West, Hamilton
- (f) Sharon Perks, 397 Charlton Avenue West, Hamilton
- (g) Elaine and Andrew Jensen, 405 Charlton Avenue West, Hamilton
- (h) Don Seymour and Suzanne Swanton, 406 Charlton Avenue West, Hamilton,

The Committee was in receipt of a report of the Commissioner of Planning and Development dated 1992 September 11.

Paul Mallard advised that this application proposes to change the subject property in the Official Plan from Residential to Commercial. The zoning change will provide additional parking in conjunction with the liquor store. This will alleviate traffic and congestion problems. Landscape barriers will be required adjacent to residential areas. He recommended the by-law be held in abeyance pending submission of a site plan. Of 267 notices sent, 10 replied in favour and 12 replied as opposed.

The applicant was present in support of his application.

Andy Jenson of 405 Charlton Avenue West was concerned with devaluation of property values and debris in the parking lot.

Brian Sayer of 64 Chatham Street did not feel that the parking lot would solve traffic or congestion problems. He is opposed to having both the beer and liquor store in a residential neighbourhood.

Suzanne Swanton of 406 Charlton Avenue feels unsafe at having to park in a back alley adjacent to the parking lot.

Alderman Wilson and Alderman Kiss did not agree that traffic and congestion will be alleviated.

In response to a question from Alderman Eisenberger, Rolland Karl advised that limited on-street parking exists. Street parking is not usually removed unless there is a problem.

Following discussion, the Committee resolved to table the item with the following instructions:

- (a) That the Traffic Department investigate the feasibility of eliminating on-street parking and;
  - (b) That the residents be recircularized for the next public meeting on this application.
14. **ZA-92-08, Faith Evangelical Lutheran Church of Hamilton, Owner, for changes in zoning from "C" District to "DE-3" District modified for Block "1" and to "H" District modified for Block "2", and for a modification to the "H" District regulations for Block "3", for property located at No. 1907 King Street East; Bartonville Neighbourhood**

Submissions were received from the following people:

- (a) Jim and Brigit Matheson, 124 Tragina Avenue South, Hamilton
- (b) Alderman Copps, Ward 4
- (c) Eric McGuinness, 86 Weir Street South, Hamilton
- (d) A petition from Lutheran Homes, 960 Glenwood Avenue, Burlington
- (e) A petition from area residents

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 September 15.



Paul Mallard advised that the application is to permit a 3 storey, 32 unit seniors building in conjunction with the church. Regarding parking, the applicants are to provide 17 spaces on the front of the property, 23 underground and 11 elsewhere on site. There will be 4 entrances. The project is close to all downtown amenities. Various variances are required if the project is to be approved. Visual barriers are recommended along the easterly, northerly and westerly lot lines. Of 197 notices sent, 13 were in favour and 26 replied as opposed.

Mr. Mallard continued by explaining that a number of public meetings have been held. There are no problems regarding servicing the property and municipal numbering, and access will be from King Street. 37 1/2 percent greenspace is being provided whereas 25% is required.

Gary Zebroski, an architect and Alfred Rahn were present on behalf of the Lutheran Church.

Mr. Zebroski advised that the Ministry of Housing stated that developments of this nature do not affect property values. Visually, the impact of the project will not affect the neighbours.

Tom Bain of 230 Albert Street, Richard Higgins of 115 Weir Street South, Mr. Sidecar of 135 Tragina Street South, Albert Moore of 92 Weir Street South, Eric McIness of 86 Weir Street South and Hazel Smith of 98 Barons Avenue were present to voice the following concerns:

- garbage sites unsightly
- height of the building being 56 feet
- reduction of neighbours privacy
- increased traffic
- lack of parking spaces
- access from Weir Street
- affect on property values
- shading in neighbours yards
- sewage capacity and water pressure

Mr. Zebroski replied that all garbage is to be held internally. With regard to traffic, 1 additional car is anticipated every 6 minutes. Lutheran homes will attempt to limit infringement upon neighbours privacy. All deliveries will be from King Street access.

Alfred Rahn submitted a petition from the Lutheran Church. He stated that the project will service area residents and conforms to the Hamilton Housing Intensification Strategy.

With regard to the 2 major concerns being massing and property value, Mr. Rahn stated that the pitched roof which is staggered will be an enhancement. The concern over property values is unsubstantiated. The project is guided with social concern for an aging population and will benefit the City at large.

Alderman Wilson was concerned that this building is being erected in a "C" residential district. He felt that the massing of land will be great because the building is being erected on a high grade of land. Traffic on Weir Street is a concern and residents are generally not in favour.

Alderman Merling suggested that if this application is to be brought back, the Planning Department has capabilities to transpose the building on site through visual graphics.

Following discussion, the Committee resolved that the application be tabled in order to allow the applicants, Ward Aldermen and Planners to meet and come up with an amended proposal.

15. **ZA-92-09, Hope Haven Homes Family Rehabilitation Centre, owner, for a further modification to the "D" District regulations for property located at no. 992 Montclair Avenue; Delta West Neighbourhood**

The Committee was in receipt of a report from the Commissioner of Planning and Development dated 1992 September 15.

Paul Mallard advised that the Planning Department is recommending denial because there were to have been no beds to be provided at this location.

Wendy Supriati of Hope Haven Homes was present. She explained the rehabilitation programmes available from the shelter to all family members.

Mr. Bill Short stated that this application will not disrupt the neighbourhood.

Mr. Hodson was also present in support of the application.

Alderman Drury was not in support of the application. He stated that there are eight beds in 984 Montclair Avenue and the Department of Social Services does not support the application.

Subsequent to discussion the Committee resolved to recommend to Council as follows:

That approval be given to Zoning Application 92-09, Hope Haven Homes Family Rehabilitation Centre, Owner, for a further modification to the existing "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District, to permit two emergency shelter bed units with the existing counselling rooms, in conjunction with the Rehabilitation Centre at 984 Montclair Avenue, on property located at 992 Montclair Avenue, as shown on the attached map marked as Appendix "H", on the following basis:

- (a) That the "D" (Urban Protected Residential, One and Two-Family Dwelling, Townhouses, etc.) District regulations, as set out under Section 10 of Zoning By-law No. 6593, as amended by By-law No. 89-336, applicable to the subject lands, be further modified to include the following variances as a special requirements:
  - (i) That Clause (b) of Section 1 of By-law No. 89-336 be deleted and the following new Clause be substituted therefore:
    - "b) That notwithstanding Section 10(1)(i) of By-law No. 6593, a residential care facility for the accommodation of not more than two (2) residents for Hope Haven Homes shall be permitted;"
  - (ii) That the following new Clauses be added to Section 1 of By-law No. 89-336:
    - "c) That Section 10(6) shall not apply;
    - d) That notwithstanding Section 10(4)(i), a lot width of 10.16 m and a lot area of 286.0 m<sup>2</sup> shall be permitted; and,
    - e) That Section 18A shall not apply."
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593, as Schedule S-1138a, and that the subject lands on Zoning District Map E-45 be notated S-1138a;
- (c) That the City Solicitor be directed to prepare a by-law to amend Zoning By-law No. 6593 and Zoning District Map E-45 for presentation to City Council; and,

- (d) That the proposed modifications in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

16. SECRETARY, PLANNING AND DEVELOPMENT COMMITTEE

**Making Cities Livable Conference - 1992 March 8 - 12, Charleston, South Carolina**

As recommended by the Secretary of the Planning and Development Committee in a report dated 1992 September 17, the Committee recommended to Council as follows:

- (a) That the Chairperson or his designate be authorized to attend a workshop to take place on 1993 March 8 to 12 in Charleston, South Carolina; and,
- (b) That cost for attendance be allocated to Alderman Travel Account No. CH55201-10010 from the 1993 operating budget.

17. OTHER BUSINESS

None.

18. ADJOURNMENT

There being no further business, the Committee meeting adjourned.

Taken as read and approved,

ALDERMAN DON DRURY, CHAIRPERSON  
PLANNING AND DEVELOPMENT COMMITTEE

Tina Agnello  
Secretary  
1992 September 23





# RESIDENTIAL UNDERGROUND PARKING STUDY

## PRELIMINARY METHODOLOGY

Appendix "A" as referred to in Section E of the minutes of the Planning and Development Committee meeting held 1992 September 23

### 1) DETAILED STUDY DESIGN

- a) Refine Overall Study Design
- b) Design Safety Audits
- c) Identify Stakeholder Representatives

### 2) BACKGROUND INFORMATION

- a) Contact Other Municipalities
- b) Review Relevant Literature
- c) Review Existing Policies and By-Laws
- d) Review Relevant Articles in Press Archives
- e) Contact Police and Sexual Assault Centre

### 3) STAKEHOLDER GROUP INPUT

- a) Establish Stakeholder Group
- b) Provide Background Information for Meetings
- c) Hold Meetings / Brainstorming Sessions with Stakeholders (approximately three to five meetings)

### 4) SITE VISITS AND SAFETY AUDITS

- a) Conduct Safety Audits of Residential Parking Garages (approximately four to six)
- b) Visit Parking Authority Garages
- c) Visit Assault Locations with Police

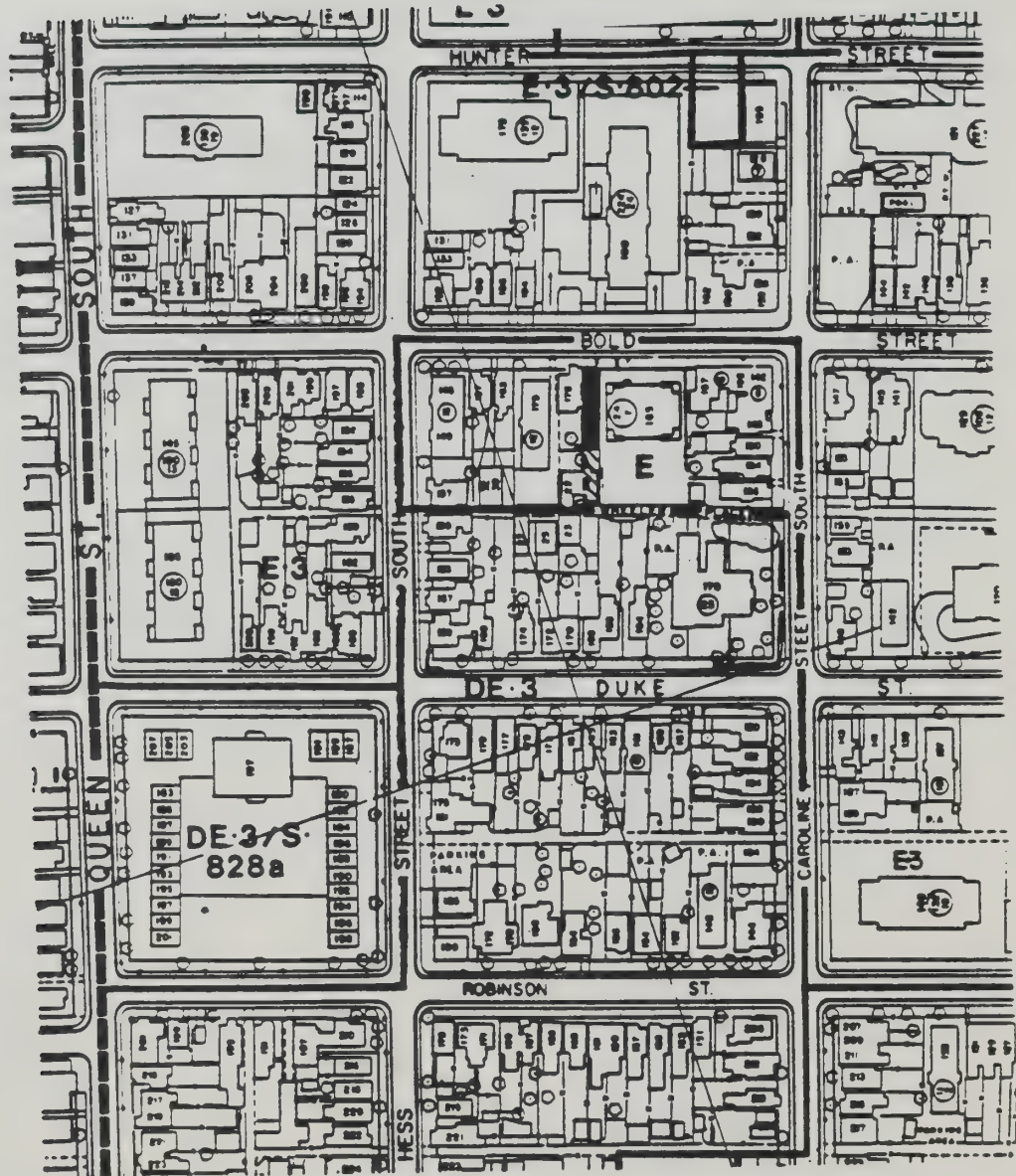
### 5) ANALYSIS AND REVIEW

- a) Document and Review Findings
- b) Formulation of Draft Policies
- c) Review and Revision with Planning Dept. Staff



### 6) PUBLIC MEETING AND FINAL REPORT

- a) Seek Authorization for Public Meeting
- b) Public Meeting Presentation; Submission Review
- c) Final Revisions to Policies
- d) Report to Planning and Development Committee For Consideration of Policies/Guidelines
- e) Implementation of Report - Site Plan Stage

Appendix "C" as referred to  
in Section 9 of the minutes  
of the Planning and Development  
Committee meeting held 1992  
September 23



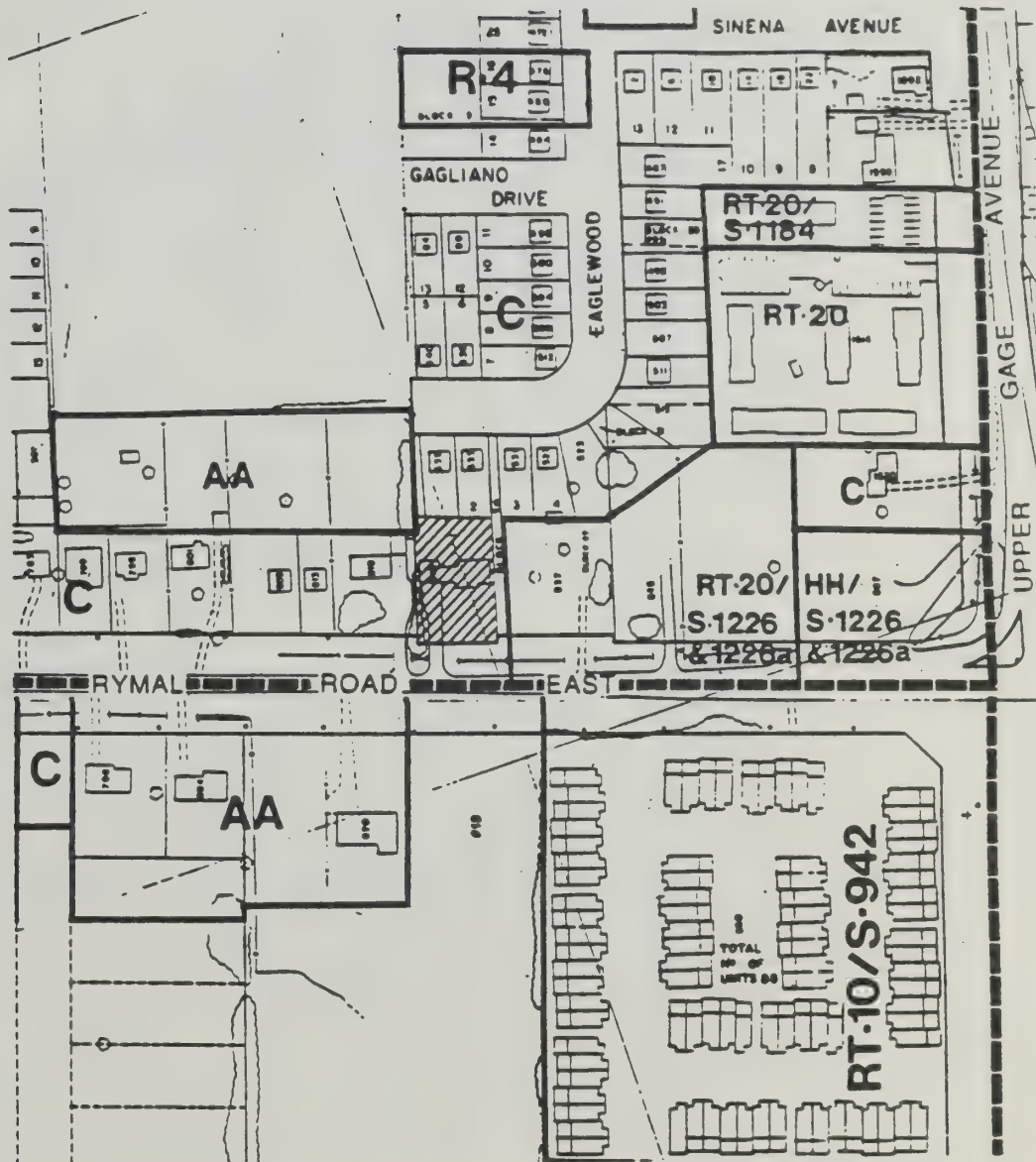
**Legend**

- Block "1"  Proposed modification to the "E"  
Block "2"  (Multiple Dwellings, Lodges, Clubs, Etc.) District regulations.

ZA-92-20



Appendix "D" as referred to  
in Section 10 of the minutes  
of the Planning and Development  
Committee meeting held 1992  
September 23



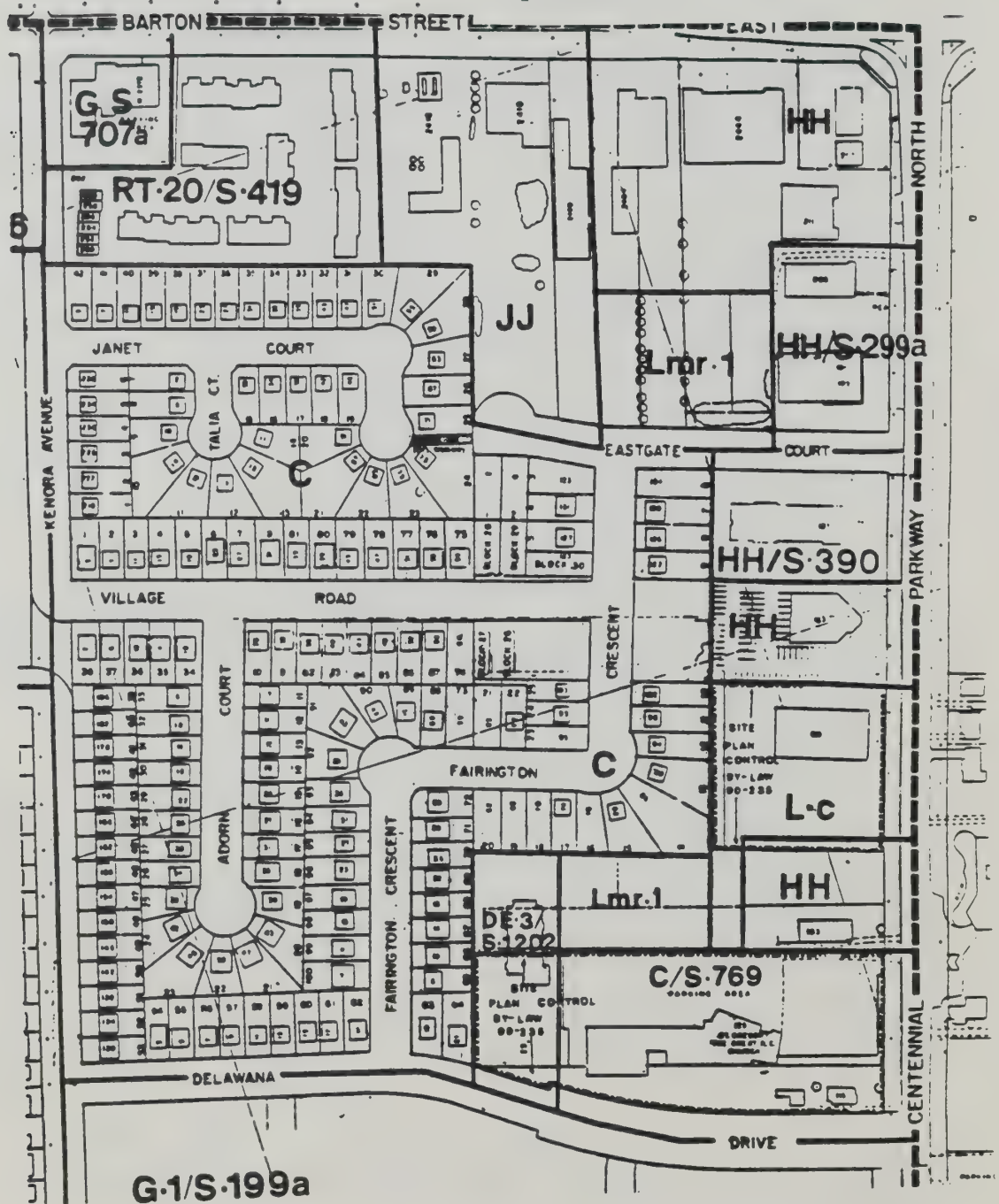
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Site of the Application

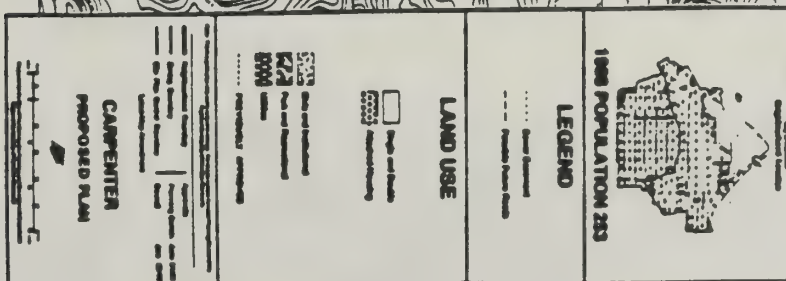


Appendix "E" as referred to  
in Section 11 of the minutes  
of the Planning and Development  
Committee meeting held 1992  
— September 23



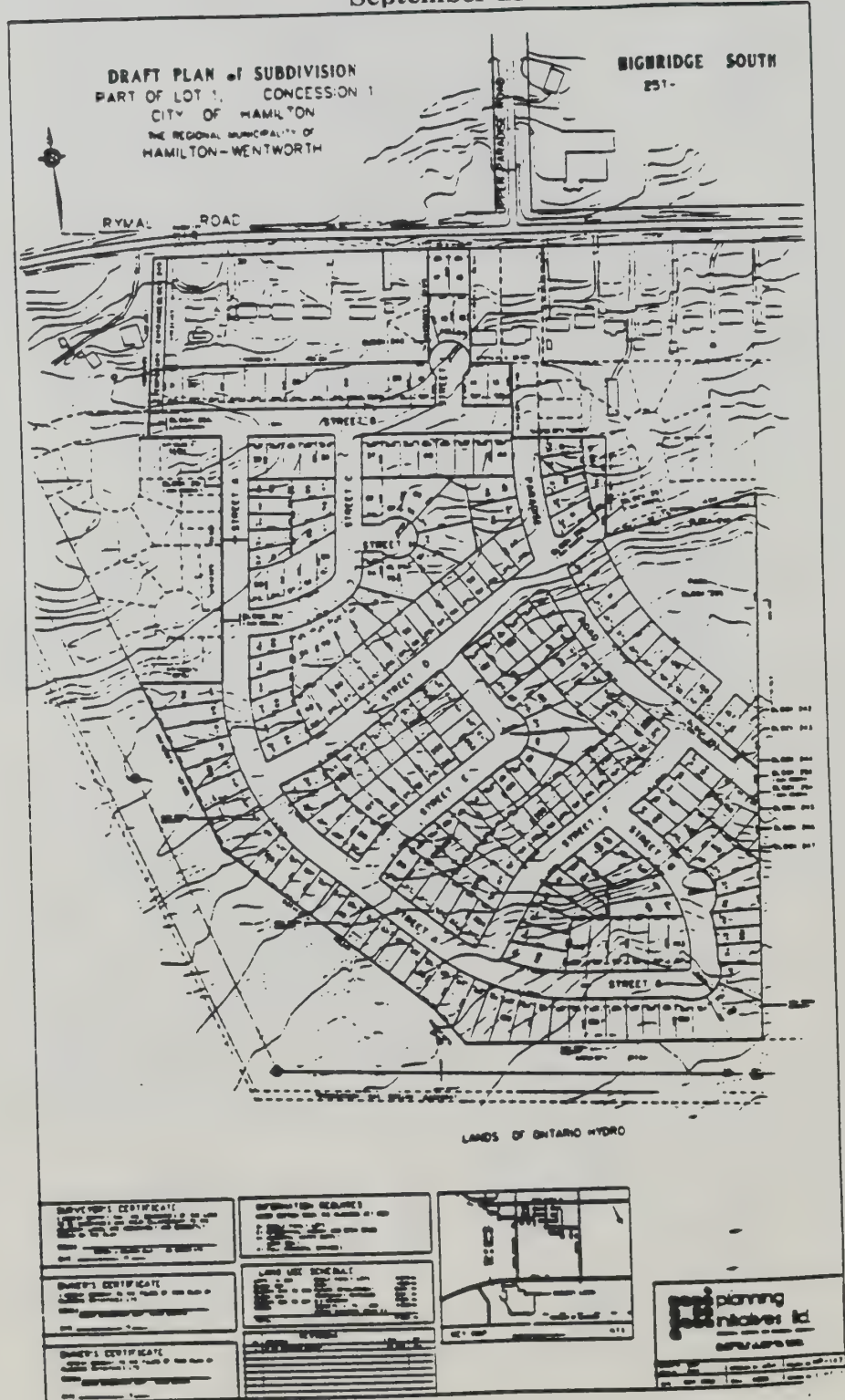
Existing Walkway  
Kentley Neighbourhood

MAP - 2

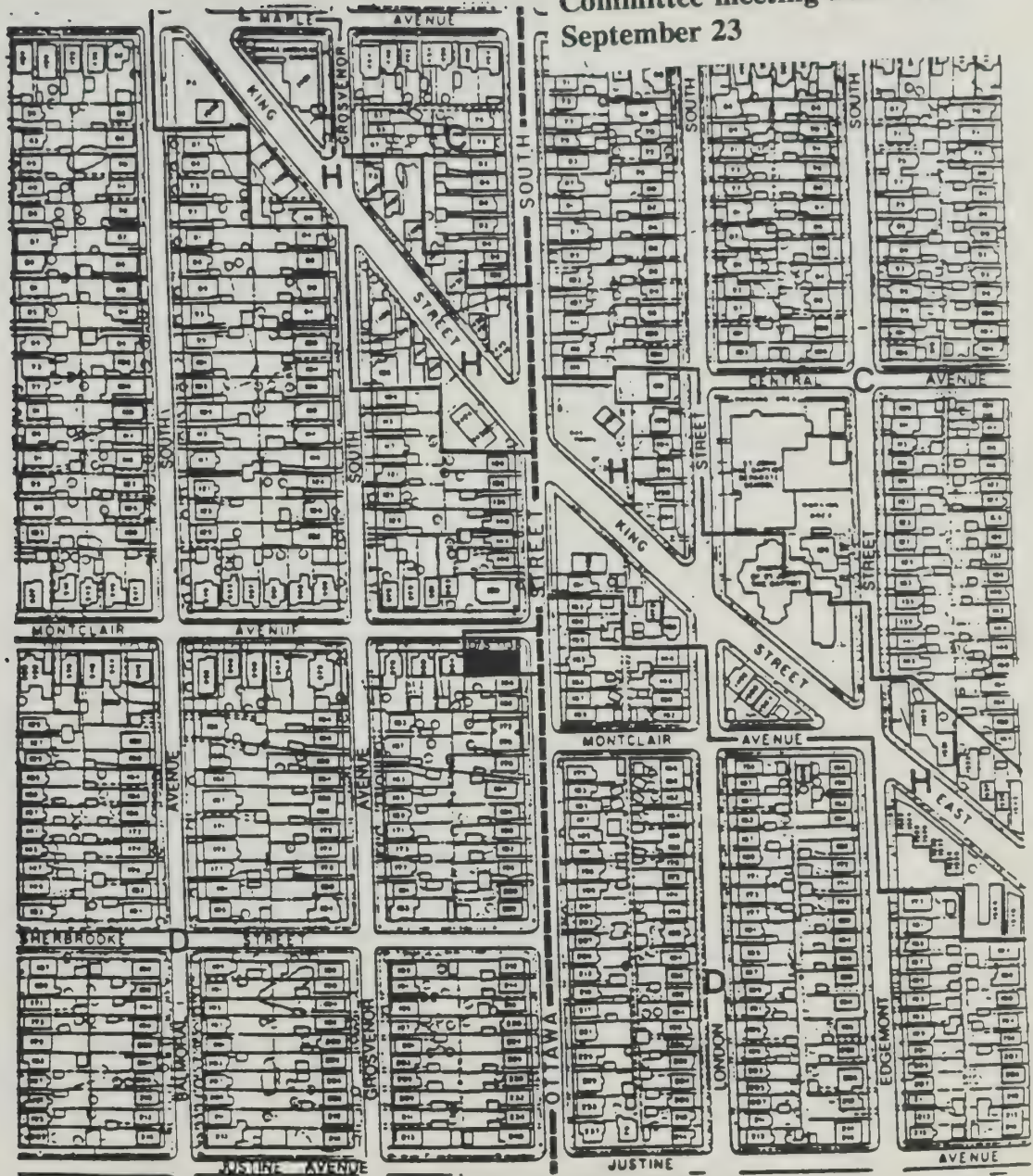




Appendix "G" as referred to  
in Section 12B of the minutes  
of the Planning and Development  
Committee meeting held 1992  
September 23



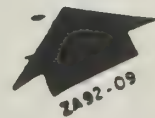
Appendix "H" as referred to  
in Section 15 of the minutes  
of the Planning and Development  
Committee meeting held 1992  
September 23



Legend



Site of the Application





**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 29 1992

**DATE:** 1992 September 29

CITY CLERKS

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** D. W. Vyce  
Director of Property

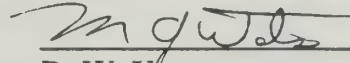
**SUBJECT:** Lease of City owned land to  
Philip Enterprises Inc.

**RECOMMENDATION:**

- a) That a Lease with Philip Enterprises Inc., for the rental of the vacant lots at 391, 393, 397, 399 and 401 Sherman Avenue North, and 17, 19, 21, 23, 25, 27, 29 and 31 Gerrard Street, comprising of a total area of 2,376.2 square metres (25,579 square feet) more or less, commencing on November 1, 1992 on a month to month basis, at a rental rate of \$640.00 per month plus realty taxes estimated at \$6,323.00 for 1992, be approved and completed, and rental proceeds be credited to Account Number CF 4501 308750001 (Rental Fees Enclave Clearance Program).
- b) That Philip Enterprises Inc. shall agree to insure the City for an amount of liability not less than the sum of \$2,000,000.00 with the insurance policy to include a cross liability clause.
- c) That Philip Enterprises Inc. shall at its own expense undertake to gravel the leased property, creating a stable base upon which the parking of trucks is possible, and to construct driveway ramps along the northerly and westerly limits of the leased property.
- d) That Philip Enterprises Inc. shall be responsible for the repair of any damage to the sidewalks abutting the leased property that arises as a result of truck traffic gaining ingress and egress to and from the leased premises.
- e) That Philip Enterprises Inc. shall at its own costs be solely responsible for the removal and disposal of any and all materials that are deposited on the leased premises during the term of the lease as a result of Philip Enterprises Inc. use of the property.



- f) That the Mayor and City Clerk be authorized and directed to execute a Lease Agreement in a form satisfactory to the City Solicitor.

  
D. W. Vyce

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

See above recommendation.

***BACKGROUND:***

Philip Enterprises Inc. approached the City inquiring as to the possibility of leasing a portion of City owned land abutting their transfer facility on Sherman Avenue North. The land will be used for parking empty trucks awaiting loading, thus preventing their trucks from parking on the surrounding City streets and creating traffic difficulties during this period.

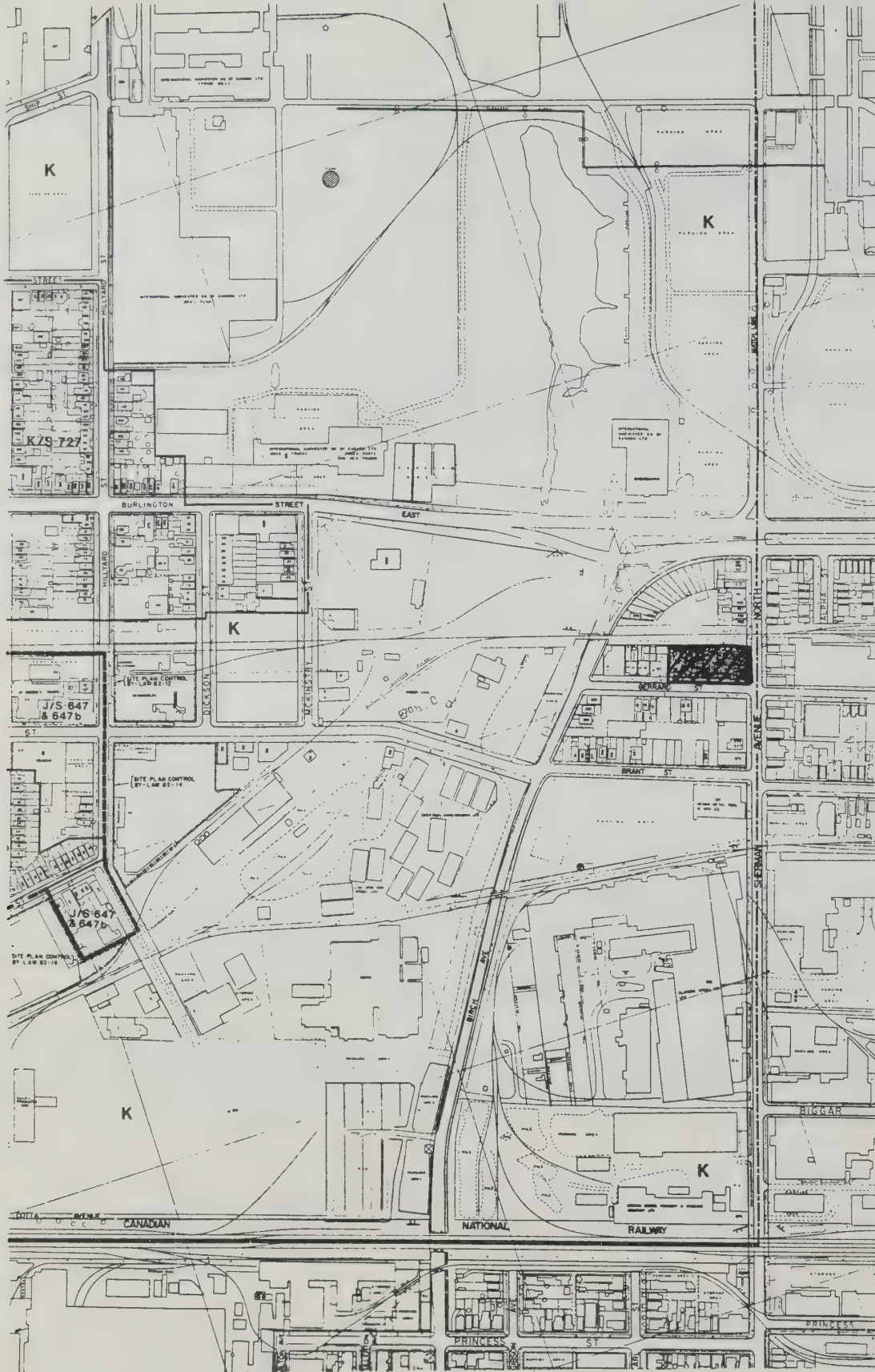
The subject properties have been acquired by the City of Hamilton in connection with the Alpha West Enclave Clearance Program. The lands are to be rented on a month to month basis until such time as the assembly of the Alpha West properties are completed.

KN/nw

c.c. P. Noé Johnson, City Solicitor

A. Ross, Treasurer

L. MacNeil, Property Clerk, Surveys



<table border="1"> <tr> <td></td> <td></td> <td>81</td> </tr> <tr> <td>69</td> <td>70</td> <td>71</td> </tr> <tr> <td>95</td> <td>48</td> <td>128</td> </tr> </table>			81	69	70	71	95	48	128	<p>CITY OF HAMILTON INDUSTRIAL SECTOR 'B' AND KEITH ZONING</p>	
		81									
69	70	71									
95	48	128									
<p>This is not a Legal Document For Zoning Verification Please Contact City Building Department.</p>											
<p>Neighbourhood Boundary Zoning Boundary.</p>		<p>0 100m SCALE 50m</p>									
<p>Prepared for The City of Hamilton by the Planning and Development Department of The Regional Municipality of Hamilton Wentworth</p>		<p>PLANNING UNIT NO. 6202 6212</p> <p>JUNE 1986</p> <p>PAGE NO. 70</p>									

CITY OF HAMILTON  
- RECOMMENDATION -

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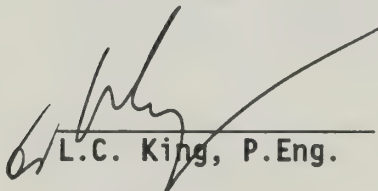
SEP 29 1992

CITY CLERKS

DATE: September 29, 1992  
REPORT TO: Tina Agnello, Secretary  
Planning and Development Committee  
FROM: L.C. King, P.Eng.  
Building Commissioner  
SUBJECT: DEMOLITION OF:  
36 CLIFF AVENUE

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 36 Cliff Avenue.

  
L.C. King, P.Eng.

LCK/EB/dm

FINANCIAL/STAFFING/LEGAL IMPLICATIONS: N/A

**BACKGROUND:**

PRESENT ZONING: "D"  
PRESENT USE: Single Family Dwelling  
PROPOSED USE: Extension to Public Library  
BRIEF DESCRIPTION: 1 1/2 storey masonry single family dwelling

To demolish the existing dwelling to provide an area to extend the Concession Street Library. The lot size is 30' x 150'. The proposed use is permitted in a "D" zoning district.

The owner of the property as per the demolition permit application is:

Hamilton Public Library Board



**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 29 1992

**DATE:** September 29, 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** L.C. King, P.Eng.  
Building Commissioner

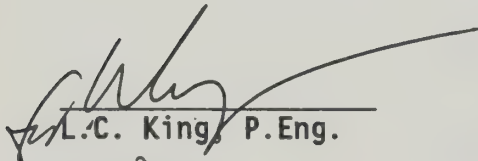
**SUBJECT:** DEMOLITION OF:  
127-129 BAY STREET NORTH

CITY CLERKS

Tag No. 87660

**RECOMMENDATION:**

That the Building Commissioner be authorized to issue a demolition permit for 127-129 Bay Street North.

  
L.C. King, P.Eng.

LCK/BB/dm

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:** N/A

**BACKGROUND:**

**PRESENT ZONING:** "H" Commercial

**PRESENT USE:** Auto Supply Company and four apartments

**PROPOSED USE:** Parking Lot

**BRIEF DESCRIPTION:** Two storey brick building in fair condition

The owner wishes to demolish the building at 127-129 Bay Street North, the synagogue at 126 Cannon Street West, and a commercial garage at 133-135 Bay Street North to create a parking lot. This building will require a Professional Engineer's report and is on the L.A.C.A.C. list as it is of interest to them. The four apartments are on the second floor. A parking lot is a permitted use in an "H" commercial zoning district.

The owner of the property as per the demolition permit application is:

Henry Thode, R.R. #3, Ridgeway, Ontario  
Agent: Mr. Richard Lees, 2 Ray Street South, Hamilton, Ontario

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**DATE:** September 29, 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** L.C. King, P. Eng.  
Building Commissioner

**SUBJECT:** COMMERCIAL FACADE LOAN PROGRAMME  
252 OTTAWA STREET NORTH (92.2.4.2.1.A)

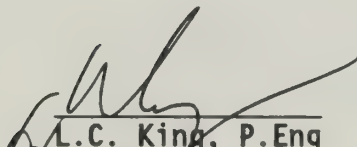
RECEIVED

SEP 29 1992

CITY CLERKS

**RECOMMENDATION:**

That a Commercial Facade Loan in the amount of ten thousand, six hundred and forty seven dollars (\$10,647) be approved for Greta Munt, 252 Ottawa Street North, Hamilton. The interest rate will be 3 1/8 percent, amortized over 10 years.

  
L.C. King, P.Eng  
LCK/JHR/dc

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

The owner of 252 Ottawa Street North has applied for assistance under the City of Hamilton's Commercial Facade Loan Programme. As per the terms of the Programme, the Building Department has inspected the property under the Property Standards By-law 74-74, and the necessary repairs have been included in the cost of repairs.

Tina Agnello, Secretary  
Planning and Development Committee

- 2 -

September 29, 1992

The Ottawa Street Business Improvement Area (B.I.A.) has reviewed the plans and approved the work which is to be undertaken by the owner.

The Building Department therefore recommends the approval of a Commercial Facade Loan to Greta Munt for improvements to 252 Ottawa Street North in the amount of \$10,647. The loan will be amortized over a 10 year period at 3 1/8 percent interest. The monthly payments will be \$103.43 and will be secured by a Promissory Note and a lien registered on title.

c.c. R. Camani, Treasury Department



**CITY OF HAMILTON**

**- INFORMATION -**

**RECEIVED**

**SEP 30 1992**

**CITY CLERKS**

**DATE:** 1992 September 28  
(4476)

**REPORT TO:** T. Agnello, Secretary  
Planning and Development Committee

**FROM:** J. Thoms, Commissioner  
Planning and Development Department

**SUBJECT:** Approved Site Plan Control Application.

**BACKGROUND:**

The following Site Plan Control Applications were approved by the Chairman of the Planning and Development Committee and the Alderman of the Ward.

DA-92-12	-	266 Limeridge Road East
DA-92-24	-	322-330 Charlton Avenue West

JPS/dkp  
SPC.INF



CITY OF HAMILTON

- RECOMMENDATION -

1a,

**DATE:** 1992 September 30  
(CI-91-G)

RECEIVED

SEP 30 1992

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

CITY CLERKS

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** General Text Amendment to Zoning By-law No. 6593 - Implementation of  
the Residential Intensification Strategy

**RECOMMENDATIONS:**

- A) That approval be given to City Initiative 91-G, for a general text amendment to Zoning By-law No. 6593, to implement the "Housing Intensification Strategy" respecting residential conversions, as adopted by City Council on June 25, 1991, on the following basis:
- i) That Section 2.(2)A.(iv) of Zoning By-law No. 6593 be deleted in its entirety;
  - ii) That Section 7A(1)(a) of Zoning By-law No. 6593 be amended by deleting "(ii)," so that the clause shall read as follows:  
  
"as provided in clauses 8(1)(i) and (iia);"
  - iii) That the following subclauses of Zoning By-law No. 6593 be deleted in their entirety:
    - a) Section 8(1)(ii);



- b) Section 9.(1)(ii);
  - c) Section 10.(1)(iv);
  - d) Section 10A(1)(iii);
  - e) Section 10B(1)(iv);
  - f) Section 10C(1)(iv);
  - g) Section 11.(1)(ii); and,
  - h) Section 11B(1)(iv);
- iv) That Section 10A(3)(ii)(a) of Zoning By-law No. 6593 be amended by deleting "or converted dwelling" so that the clause shall read as follows:
- "for a single-family dwelling as permitted in a "C" District, a side yard along each side lot line of a width of at least 1.2 metres (3.94 feet);"
- v) That Section 10A(3)(ii)(b) of Zoning By-law No. 6593 be amended by adding "or" between the words "dwellings, a" in the second line and deleting "or a converted dwelling" in the third line so that the clause shall read as follows:
- "for a two family dwelling except a pair of semi-detached single family dwellings, or a three-family dwelling, a side yard along one side lot line of a width of at least 3 metres (9.84 feet),....."
- vi) That Sections 14(1a), (1b) and (1c) of Zoning By-law No. 6593 be deleted in their entirety;
- vii) That Section 19 of Zoning By-law No. 6593 be deleted in its entirety and replaced with the following:

**"SECTION 19 - RESIDENTIAL CONVERSION REQUIREMENTS**

19(1) "AA", "B", "B-1", "B-2", "C", "D" and "R-2" Districts

Notwithstanding anything contained in this By-law, any single-family detached dwelling in an "AA" (Agricultural), "B" (Suburban Agriculture and Residential, etc.), "B-1" (Suburban

Agriculture and Residential, etc.), "B-2" (Suburban Residential), "C" (Urban Protected Residential, etc.), "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) and "R-2" (Urban Protected Residential - One and Two-Family Dwellings) Districts may be converted to contain not more than two dwelling units, provided all the following requirements are complied with:

- i) each dwelling unit has a floor area of at least 65 square metres (699.65 square feet), contained within the unit and having a minimum clear height of 2.1 m (6.9 ft.), but excluding the area of the cellar, if any, and of any porch, verandah or other such space which cannot lawfully be used as living quarters;
- ii) the applicable zoning district regulations for a single-family detached dwelling shall apply, except the minimum lot area shall be 270 m<sup>2</sup>;
- iii) except as permitted in clause iv), the external appearance and character of the dwelling shall be preserved;
- iv) there shall be no outside stairway other than an exterior exit;
- v) parking spaces, access driveways and manoeuvring space shall be provided in accordance with Section 18A, except that parking for only one of the dwelling units may be provided in accordance with the following special provisions:

Location

- a) it may be located in a required front yard provided that the required area for parking shall not occupy more than 50% of the gross area of the front yard;
- b) not less than 50% of the gross area of the front yard shall be used for a landscaped area, excluding concrete, asphalt, gravel, pavers or other similar materials; and,
- c) manoeuvring for the parking space may be permitted off-site.

19(2)

"DE", "DE-2", "DE-3", "E", "E-1", "E-2" and "E-3" Districts

Notwithstanding anything contained in this By-law, any dwelling in a "DE" (Low Density Multiple Dwellings), "DE-2" (Multiple Dwellings), "DE-3" (Multiple Dwellings), "E" (Multiple Dwellings, Lodges, Clubs, etc.), "E-1" (Multiple Dwellings, Lodges, Clubs, etc.), "E-2" (Multiple Dwellings) and "E-3" (High Density Multiple Dwellings) Districts may be converted to provide two dwelling units or more, provided all the following requirements are complied with:

- i) each dwelling unit has a floor area of at least 65 square metres (699.65 square feet), contained within the unit and having a minimum clear height of 2.1 m (6.9 ft.), but excluding the area of the cellar, if any, and of any porch, verandah or other such space which cannot lawfully be used as living quarters;
- ii) except as permitted in clause iii), the external appearance and character of the dwelling shall be preserved;



- iii) there shall be no outside stairway other than an exterior exit;
- iv) the yard requirements of the applicable zoning district in which the residential building is located shall apply to any extensions or enlargements;
- v) the following lot area requirements shall apply:
  - a) a minimum lot area of 270 m<sup>2</sup> shall be provided and maintained for one to three dwelling units;
  - b) a minimum lot area of 450 m<sup>2</sup>, but not less than 65 m<sup>2</sup> of lot area per dwelling unit, shall be provided and maintained for more than three dwelling units;
- vi) parking spaces, access driveways and manoeuvring space shall be provided in accordance with Section 18A, except that parking for only one of the dwelling units may be provided in accordance with the following special provisions:

Location

- a) it may be located in a required front yard provided that the required area for parking shall not occupy more than 50% of the gross area of the front yard;
- b) not less than 50% of the gross area of the front yard shall be used for a landscaped area, excluding concrete, asphalt, gravel, pavers or other similar materials; and,

- c) manoeuvring for the parking space may be permitted off-site.

19(3) "H" Districts

- i) Notwithstanding any other provisions of this by-law, any building or part thereof, existing on the 8th day of March, 1983 within a "H" (Community Shopping and Commercial, etc.) District, may be converted to contain not more than ten dwelling units;
- ii) The average of the floor areas, of all dwelling units referred to in clause i), shall be at least 65 square metres in area;
- iii) Every building converted in accordance with clause i) shall either:
  - a) be situate on a lot having a minimum radial separation distance of 180.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a building converted or as maybe converted in accordance with clause i); or,
  - b) maintain the ground floor for commercial uses and provide parking in accordance with the provisions of Section 18A.
- viii) That Section 18A(14) of Zoning By-law No. 6593 be deleted in its entirety and replaced with the following:
 

"18A.(14a) Except for single-family dwellings and two-family dwellings erected prior to the 14th day of December 1971, no part of a

required parking area in a residential district shall be located in a front yard.

(14b) For single-family dwellings and two-family dwellings erected prior to the 14th day of December 1971, required parking may be provided and maintained in the front yard provided that:

- a) the required area for parking shall not occupy more than 50% of the gross area of the front yard; and,
- b) not less than 50% of the gross area of the front yard shall used for a landscaped area, excluding concrete, asphalt, gravel, pavers or other similar materials."

ix) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 for presentation to City Council; and,

x) That the proposed changes to the Zoning By-law are in conformity with the Official Plan for the Hamilton Planning Area.

B) That the Transportation and Environment Committee be requested to amend the Streets By-law to require a minimum of 50% of the area used for residential boulevard parking be provided and maintained as a landscaped area.

***EXPLANATORY NOTE:***

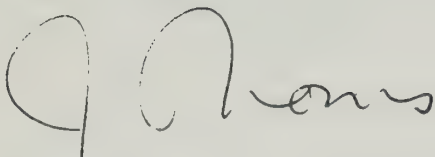
The purpose of this by-law is to provide for a general text amendment to Zoning By-law No. 6593, by implementing the recommendations of the "Housing Intensification Strategy", adopted by City Council on June 25, 1991.

The effect of the by-law is:

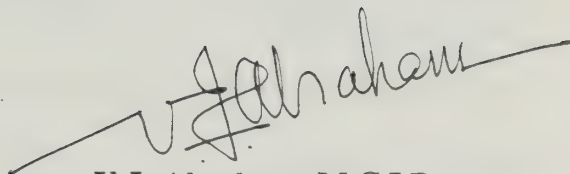
- to permit conversions of single-family-detached dwellings to provide for an additional unit, regardless of the age of the building, whereas the Zoning By-law restricts conversions to dwellings built prior to July 25, 1940;



- to permit conversion of single-family detached dwellings up to a maximum of two units in the "AA" (Agricultural), "B" (Suburban Agriculture and Residential, etc.), "B-1" (Suburban Agriculture and Residential, etc.), "B-2" (Suburban Residential), "C" (Urban Protected Residential), "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) and "R-2" (Urban Protected Residential - One and Two-Family Dwellings) Districts;
- to permit conversion of dwellings to two dwelling units or more in the "DE" (Low Density Multiple Dwellings) "DE-2" (Multiple Dwellings), "DE-3" (Multiple Dwellings), "E" (Multiple Dwellings, Lodges, Clubs, etc.), "E-1" (Multiple Dwellings, Lodges, Clubs, etc.), "E-2" (Multiple Dwellings) and "E-3" (High Density Multiple Dwellings) Districts;
- to limit the conversion of a building to two dwelling units within the "D" (Urban Protected Residential, etc.) District whereas the by-law currently permits conversion up to three dwelling units;
- to require a minimum of 65 m<sup>2</sup> (699.65 square feet) of gross floor area for each dwelling unit including a minimum clear ceiling height of 2.1 m (6.9 ft.);
- to limit parking in the front yard to a maximum of 50% for the additional unit and to retain the remaining 50% of the front yard for landscaped purposes;
- to permit conversions of commercial buildings within the "H" (Community Shopping and Commercial, etc.) District to a maximum of 10 dwelling units with no parking required and a 180 m radial separation distance between each building or permit conversion to a maximum of 10 dwelling units provided that commercial uses are provided on the ground floor and parking is provided in accordance with the provisions of Section 18A; and,
- to require 50% of the front yard parking area used for all single and two-family dwellings built prior to 1971 to be landscaped, whereas the Zoning By-law does not require a landscaped area in the front yard.



**J. D. Thoms, M.C.I.P.,**  
**Commissioner**  
**Planning and Development Department**



**V.J. Abraham, M.C.I.P.,**  
**Director of Local Planning**

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

In July 1989, the Provincial Cabinet introduced a Policy Statement entitled Land Use Planning and Housing. The goal of the Policy Statement was to require municipalities 'to provide the opportunity' through amendments to Planning Documents (i.e. Official Plan, Zoning By-law etc.), for the provision of affordable housing.

One of the requirements of the Policy Statement was the completion and adoption of a "Housing Intensification Strategy". Housing Intensification is the process of increasing the number of households within the existing urban fabric by making more efficient use of the existing housing stock and/or physical infrastructure. **Converted dwellings is one component of housing intensification.**

**In June 1991, City Council adopted a "Housing Intensification Strategy".** The Strategy identified both Provincial Initiatives and Municipal Initiatives including: vigorous enforcement of existing Property Standards, Backyard By-laws; identifying and promoting sites for infill, conversion of non-residential to residential uses where conversions are appropriate; to target the Barton Street Commercial Strip as an area for conversion; general text amendments to the Zoning By-law to permit an accessory unit in various Districts; to amend the "D" (Urban Protected Residential - One and Two-Family Dwellings, etc.) District to permit two accessory units whereas three are currently permitted; and to permit conversion of buildings within the "H" (Community Shopping and Commercial, etc.) District to a

maximum of 10 dwelling units provided the ground floor remains commercial and adequate parking is provided.

## OFFICIAL PLAN:

The proposed changes to the Zoning By-law do not conflict with the intent of the Official Plan, The following policies are noted:

- "A.2.1.1      The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- C.7.1          In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity;
- i)          Provision and maintenance of adequate off-street parking;
  - ii)        Alteration of traffic flows;
  - iii)       Improvement and maintenance of street landscaping;
  - iv)        Acquisition, removal or improvement of buildings or uses incompatible with a zoning district;
  - v)         Provision of advise and assistance in the improvement and maintenance of private dwellings;
  - vi)        Investigation into, and application of, other methods of encouraging the maintenance and improvements of buildings in RESIDENTIAL areas;



- vii) The maintenance of adequate separation distances and the placement of buffering features between RESIDENTIAL and Industrial Uses; and,
- viii) Other similar actions or matters as Council may deem appropriate.

7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value."

On April 14, 1992, City Council adopted Official Plan Amendment No. 109 which introduced the following new policy:

- "C.7.3
- i) Encourage the maintenance, renovation and rehabilitation of RESIDENTIAL properties, subject to the provisions of Subsection C.5;
  - ii) Support RESIDENTIAL development such as infilling, redevelopment and the conversion of non-residential structures that makes more efficient use of the existing building stock and/or physical infrastructure that is consistent and complements the established development pattern;
  - iv) Support RESIDENTIAL conversion of underutilized commercial space to residential which does not undermine the primary commercial use/function of the neighbourhood, subject to the provisions of Subsection A.2.2;
  - v) Encourage new RESIDENTIAL development that provides a range of dwelling types at densities and scales compatible with the established development pattern;
  - vi) Support new RESIDENTIAL development that provides tenure options and a range of prices/rents for new dwellings that will be "affordable" to Hamilton residents;

- vii) Support the concept of accessory apartments as-of-right in all areas of the City as regulated by the Zoning By-law;
- viii) Support the concept of a RESIDENTIAL community that provides a diversity of dwelling forms and housing options accessible to all Hamilton residents;"

The proposed zoning changes do not conflict with the intent of the Official Plan, as amended.

#### COMMENTS:

- 1) The proposed changes to the Zoning By-law comply with the intent of the Official Plan.
- 2) As discussed, the initiatives (Municipal and Provincial) of the "Housing Intensification Strategy" are intended to increase the opportunities for housing intensification while maintaining residential neighbourhoods.

**This report deals with the proposed changes to the Zoning By-law that are required to implement the "Housing Intensification Strategy" as adopted by City Council on June 25, 1991, respecting residential conversions. The proposed changes are as follows:**

- Permitting accessory dwelling units within existing single-family dwellings in the "AA", "B", "B-1", "B-2", "C", "R-2", and "D" Districts

The current provisions in the Zoning By-law permit an accessory apartment in each of the Districts cited above, provided they meet the provisions of the By-law which include being built prior to 1940, adequate parking, no increase in the cubic contents of the building, etc.

**It should be noted the Building Commissioner has advised that for purposes of by-law administration and enforcement, it is not possible to regulate additions for conversion purposes once the age restriction has**

been removed. Accordingly, there would be no mechanism to stop an owner from building an addition first then applying to convert the dwelling for an additional unit. In this regard, buildings could be enlarged to accommodate conversions.

- Removal of the "July 25, 1940" provision

The removal of the date limitation has the effect of allowing all single-family dwellings, regardless of age, to be converted to add an additional unit. By removing this restriction, pressure to convert will be taken off the lower City, where a higher proportion of the homes have been built prior to 1940, and distribute conversions on an equitable basis throughout the entire City.

- Amendment to the "D" (Urban Protected Residential - One and Two-Family Dwellings, Townhouses, etc.) District to permit two dwelling units instead of three units

At the present time, the Zoning By-law permits single-family dwellings in a "D" District to be converted up to a maximum of three units within the existing building, provided it meets the conversion requirements of lot area, unit size, parking, etc. The proposed change would allow the conversion up to a maximum of two units as opposed to three.

In the pre 1940 areas of the City, many of the single-family dwelling areas are zoned "D", whereas in the post 1940 areas the single-family dwelling areas are zoned "C" which only allows conversion up to maximum of two units. As noted previously, the pressure for conversion is most noticeable in the "D" Districts. The "Residential Intensification Strategy" noted there is a "difference in the nature of ownership of duplexes compared to triplexes" in that duplexes had a higher incidence of owner occupancy as opposed to triplexes which have a greater occurrence of absentee landlords. It was suggested that owner occupancy has greater benefits to the community than absentee landlords.



By reducing the number of converted units in a "D" District from three to two, it will reduce the opportunity for triplexing and would provide similar conversion opportunities which are currently found in the post 1940 areas , the areas zoned "C".

- To permit the conversion of Buildings within the "H" (Community Shopping and Commercial, etc.) District to a maximum of 10 units provided the ground floor remains for commercial uses and parking can be provided

Sections 14(1a), (1b) and (1c) permit conversion of commercial buildings up to a maximum of 10 unit without the need for parking provided the building was built prior to March 8, 1983. A further restriction requires that these converted buildings be separated by a minimum of 180 m. The intent of these regulations was to try and encourage underutilization of commercial space, particularly in strip commercial areas along major arterials (Barton Street, Main Street, etc.). The units were exempt from the parking provisions of the Zoning By-law because many of the buildings do not have the necessary space on-site to provide it. To avoid overconcentration of these buildings in one area and associated parking problems, a minimum 180 m radial separation distance was applied.

To provide further opportunities for non-residential conversions, the "Strategy" suggested commercial conversion should be encouraged for all buildings in the "H" District. In this regard, the proposed amendment would allow for conversion of a building up to ten units provided the parking requirements of Section 18A can be satisfied and the ground floor remains for commercial uses. The retention of the ground floor for commercial uses will ensure that the primary commercial function of the area is maintained. Parking will be required to ensure there is not an over concentration of residential uses which have no parking facilities.

## Parking

### a) Housing Intensification Strategy

The Zoning By-law currently permits required parking for single and two-family dwellings erected prior to 1971 to be provided in the front yard. As a result, many converted homes have provided the necessary parking by paving over the front yards. Front yard parking drastically alters the character/aesthetics/streetscape of residential areas. The "Strategy" proposes to permit limited front yard parking by requiring that a minimum of 50% of the front yard be landscaped. This regulation will reduce the incidence of paved over front yards thereby retaining the streetscape and open space character of residential areas.

### b) Existing parking requirements for single and two-family dwellings

As noted, single-family and two-family dwellings erected prior to 1971 may pave their front yards to provide parking. As a consequence of the "Intensification Strategy", there may be situations where a single-family dwelling owner, that has paved over the front yard for parking, wishes to add an extra unit. He/she will be required to remove 50% of the paved area and replace it with landscaping.

To provide for more consistent standards for front yard parking for all residential uses, it is suggested that the existing clause in Section 18A be amended to require a minimum of 50% of the front yard be landscaped for all required parking including single and two-family dwellings which have not been converted.

### c) Residential Boulevard Parking

The existing Zoning By-law requires a parking space be 6.0 m (20 ft.) in length. In older areas of the City, many properties do not have the required 6.0 m front yard to provide the parking space. As a result,

they lease the additional land from the City by entering into a 'Boulevard Parking Agreement'.

To ensure the landscaping provisions for front yard parking which are proposed in the Zoning By-law are also applied to boulevard parking, it would be appropriate to amend the Streets By-law to include similar landscaping measures.

3. The residential conversion requirements are listed throughout the Zoning By-law. For example, the use (converted dwelling) is listed by District and the specific requirements (age, appearance, size of units, etc.) are listed in a separate Section, Section 19.

For ease of by-law interpretation, it is suggested that Section 19 be deleted in its entirety and replaced with a new Section which would include all the requirements for residential conversions. The new Section would be divided into three parts. The first part would list the regulations (size of units, appearance of building, parking restrictions) for conversions in the "AA", "B", "B-1", "B-2", "C", "R-2" and "D" Districts; the second part would contain regulations for conversions in the "DE", "DE-2", "DE-3", "E", "E-1", "E-2", and "E-3" Districts; and the third part would deal with conversions in the "H" District.

## CONCLUSION:

The foregoing general text amendments to Zoning By-law No. 6593, which have been developed in conjunction with the Building, Roads and Traffic Departments, implement the Council adopted "Housing Intensification Strategy".

JHE/ma  
CI91G



"Copy sent to V. Abraham, Director of Local Planning, Planning Department, P. Noe Johnson, City Solicitor, Law Department, M. Main, Director of Traffic Services, Traffic Department and Alderman D. Drury, Chairperson, Planning and Development Committee - 1992 September 30"

Planning & Development Committee  
c/o Hamilton City Hall  
City Clerks Office

SEP 29 1992

re: Amendments to By-Law No. 6593  
Planning Department File # CI-91-G

CITY CLERKS

Dear Sirs & Madames:

With regard to the above noted By-Law amendments, I respectfully submit the following comments;

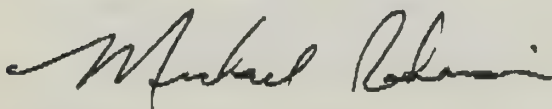
I have a great deal of difficulty with the proposed minimum unit size of 65 square meters, or 699.65 square feet. I thoroughly believe that this requirement will be almost entirely prohibitive, negating the effects that this type of amendment is designed to ensure. This size restriction would require that a home suited for conversion be a minimum of 1400 square feet. Many of Hamilton's home are not that large. One of the side effects of the amendment would be an avenue of assistance to homeowners who add the unit to help with mortgage payments, yet people who are the most needy of this effect have bought homes substantially smaller than 1400 square feet, and only need to add a small studio apartment, suited to a single or retired person who could only afford a smaller unit. The size this amendment proposes is the size of an average 2 bedroom apartment.

What substantiates the inadequacy of the proposed amendments is the lack of opposition from groups who normally would very vocally oppose this amendment. Their silence is an indication that the proposed amendments are no threat to their NIMBY attitudes. I agree with this assumption. This proposal will do little or nothing of what it is designed to do should this minimum size remain unchanged.

Therefore, I submit that the minimum unit size restriction be revised to conform to building code standards, or 269 square feet. This would embrace the Provincial government's stance on the issue of intensification, and show other municipalities that Hamilton is a leader in dealing with housing issues, not just another region that cowers to NIMBY attitudes and shortsightedness.

Again, these comments are submitted with all due respect, and I remain,

Yours Sincerely,



Michael Robinson



1b)

CITY OF HAMILTON  
- RECOMMENDATION -

RECEIVED

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CITY CLERKS

DATE: October 1, 1992

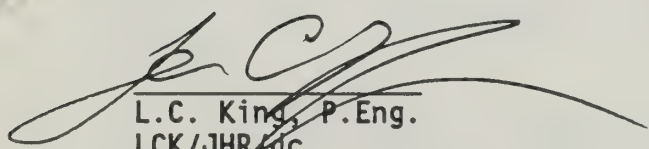
REPORT TO: Tina Agnello, Secretary  
Planning and Development Committee

FROM: L.C. King, P.Eng.  
Building Commissioner

SUBJECT: PROVINCIAL GOVERNMENT'S POLICY PAPER ON  
APARTMENTS IN HOMES (92.2.4.2.1.A)

**RECOMMENDATION:**

1. That Hamilton City Council endorse, in principle, the Association of Municipalities of Ontario (A.M.O.) regarding their response to the Provincial Government's Policy Paper on Apartments in Homes.
2. That the Mayor be directed to advise the Provincial Minister of Housing and A.M.O. of the City's position.



L.C. King, P.Eng.  
LCK/JHR/dc  
Encls.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

The City of Hamilton's Building Department has a representative who sits on the Association of Municipalities of Ontario's Task Force on Housing. Meetings have been held with other municipal officials including Toronto, London, Ottawa, Waterloo, Peel, Guelph, and St. Catharines. The result of these meetings is the attached report which makes strong recommendations against most of the policies proposed in the Provincial Paper entitled "Apartments in Homes".



It should be noted that A.M.O.'s report addresses additional issues not covered in the report prepared by the City's Planning Department and forwarded to the Committee at their last meeting. A.M.O.'s report includes comments on the loss of revenue as the City will be unable to collect fees under the Development Charges By-law for the "as-of-right" type of conversions.

The City's adopted position on "as-of-right" conversion accepted the principal providing certain conditions were met. The Province's position outlined in the Paper is a very strict interpretation of "as-of-right" with few limitations and certainly none as it relates to zoning or existing density. A.M.O.'s position is that conversions should only occur in accordance with conditions set by local municipalities. Unfortunately, A.M.O.'s report could not proceed to the last Planning and Development Committee meeting as it had not been endorsed by A.M.O.'s Executive. This approval was received August 23, 1992. It is acknowledged that the Provincial deadline for responses was August 31, 1992, however, A.M.O. had asked for an extension, therefore, endorsement of A.M.O.'s report may not be too late.

The Building Department recommends that the Planning and Development Committee recommend that City Council endorse A.M.O.'s position and that the Mayor be directed to advise the Minister of Housing accordingly.

c.c. V.J. Abraham, M.C.I.P., Director, Local Planning Division  
Planning and Development Department, Attention: W. Janssen

August 31, 1992

the Honourable Evelyn Gigantes  
Minister of Housing  
10th Floor, 777 Bay Street  
Toronto, Ontario  
M5G 2E5

the Honourable Dave Cooke  
Minister of Municipal Affairs  
17th Floor, 777 Bay Street  
Toronto, Ontario  
M5G 2E5

Dear Ministers:

The Association of Municipalities of Ontario has completed a close review and examination of your proposed draft legislation contained in the consultation paper, *Apartments in Houses*. A bound copy of the response will be submitted to you in mid-September.

As expressed in the attached response, AMO is strongly opposed to the draft legislation to permit "an apartment in a house" and calls on you not to proceed with the introduction of legislation. The Association does not endorse the legislative approach your ministries have taken for many fundamental reasons. First and foremost, AMO objects to the provincial intrusion into the authority for zoning which has been delegated to municipal councils.

AMO is especially concerned given that the proposals are not in the form of options but represent the Province's policy decision. The "consultation" paper is therefore focused on how to implement the policy not on the merits and appropriateness of the policy in the first place. In opposition to this approach, AMO has directed its response to questioning the fundamental basis of this policy decision.

First, the Association believes that the Province should not resort to this legislative approach for achieving its housing objectives through the land use planning system and that the Sewell Commission should continue to be the forum for recommending the appropriate means for the Province to express its goals and objectives. This legislative action is also contrary to the accepted practice of policy statements as the means for expressing provincial interest and is contrary to the current requirements of the housing policy statement. Furthermore, the proposed legislative action will both negate municipal efforts to plan for and develop housing intensification policies appropriate to their communities and will reduce the municipal authority to implement these policies. Finally, the legislation excludes "planning" to ensure that the necessary services are available to accommodate the residential densities permitted.



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**92-15**

**Report Series 1992**

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**AMO's Response To  
Apartments in Houses**

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**Association of Municipalities of Ontario**

**August 1992**



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## EXECUTIVE SUMMARY

On June 18, 1992, the Ministers of Housing and Municipal Affairs released their report, *Apartments in Houses: A Consultation Paper on Legislative Amendments to Allow One Apartment in a House*. Responses to the paper were requested by August 31, 1992.

AMO is strongly opposed to the Province's draft legislation to permit "an apartment in a house" and calls on the Province not to proceed with the introduction of legislation. The Association does not endorse the approach taken by the Province for many fundamental reasons. First and foremost AMO objects to the provincial intrusion into the authority for zoning which has been delegated to municipal councils.

AMO is especially concerned given that the Government's proposals are not in the form of options but represent the Government's policy decision. The "consultation" paper is therefore focused on how to implement the policy not on the merits and appropriateness of the policy in the first place. In opposition to this approach AMO has directed its response to questioning the fundamental basis of this policy decision.

AMO has also requested that the consultation period be extended by six months and has urged municipalities to hold public meetings on the proposals as they would for any official plan or zoning by-law amendment.

### AMO's Past Position

In the past AMO has supported residential intensification as one housing policy option which should be implemented at the discretion of municipalities. AMO has recommended a housing intensification policy which requires that municipalities designate areas within their official plans where each form of residential intensification will be permitted. It is against this position that AMO has responded to the draft legislation.

### AMO's Key Concerns

AMO opposes this legislation for the following fundamental reasons:

- The Province should not resort to this legislative approach for achieving its housing objectives through the land use planning system. The Sewell

appeal to the OMB of the City of Guelph's lodging house by-law. In many ways this action is similar to that taken by the Province with respect to Bill 128 which was also enacted in response to OMB hearings which at that time upheld municipal by-laws which made zoning distinctions based on the relationship of occupants of a residential unit. Now the Province is again reacting to a Board ruling it doesn't agree with by introducing legislation to prevent municipalities from limiting the number of unrelated occupants of a residential unit. This raises serious questions about the legitimacy of OMB hearings and decisions. AMO strongly opposes the proposed legislative amendments concerning unrelated persons and believes that the Guelph decision should prevail and that the Province should repeal Section 34a of the *Planning Act* or refer it to the Court of Appeal.

#### Other Amendments

In its report, *The Implementation of the Land Use Planning for Housing Policy Statement*, AMO proposed that if the Province wants to ensure greater acceptance of housing intensification, then it should look at providing municipalities with the legislative supports to enable them to ensure that the housing provided is safe, properly operated and maintained; and that the necessary services to support these units are available or can be provided and financed. In its response, AMO reiterates its recommendations on financial, regulatory and enforcement issues related to housing intensification.

One recommendation that has been responded to in the draft legislation is that of right of entry. AMO supports the proposed amendment to sections 31 and 49 of the *Planning Act* to allow the issuance of search warrants, without requiring that evidence be seized, or even specified.



# 1 INTRODUCTION

On June 18, 1992, the Ministers of Housing and Municipal Affairs released their report, *Apartments in Houses: A Consultation Paper on Legislative Amendments to Allow One Apartment in a House*. Responses to the paper were requested by August 31, 1992.

AMO is strongly opposed to the Province's draft legislation to permit "an apartment in a house." The Association does not endorse the approach taken by the Province for many fundamental reasons. First and foremost AMO objects to the provincial intrusion into the authority for zoning which has been delegated to municipal councils.

AMO is especially concerned given that the Government's proposals are not in the form of options but represent the Government's policy decision. The "consultation" paper is therefore focused on how to implement the policy not on the merits and appropriateness of the policy in the first place.

In opposition to this approach AMO has directed its response to questioning the fundamental basis of this policy decision.

The Province also appears to be avoiding public discussion of this issue. The paper has been released during the summer months, a two month period for the submission of responses has been established and no public consultation on the paper has been organized. It is clear the Province does not intend to consult widely on the issues.

In response, AMO has requested that the consultation period be extended by six months and has urged municipalities to hold public meetings on the proposals as they would for any official plan or zoning by-law amendment.

## Key Elements of the Draft Legislation

The paper proposes draft legislation for amending the *Planning Act* and *Municipal Act* to achieve the following five objectives:

- Allow people to have one apartment in their house without getting special permission from the

this way, groups of unrelated people who form a "single housekeeping unit" would be treated like any other household for zoning purposes.

- Help municipalities accommodate the creation of garden suites.

Amendments to the *Planning Act* and *Municipal Act* are proposed to permit municipalities the authority to pass a by-law to permit the placement of a garden suite for up to 10 years and to permit municipalities to enter into an agreement with proponents setting out terms and conditions related to issues such as installation, maintenance or removal, and the period of occupancy of a garden suite.

## AMO's Past Position

In the past AMO has supported residential intensification as one housing policy option which should be implemented at the discretion of municipalities. AMO has recommended a housing intensification policy which requires that municipalities designate areas within their official plans where each form of residential intensification will be permitted. These uses should be permitted in areas which meet the stated provincial criteria (in the housing policy statement) and locally determined criteria for as-of-right conversions.

It is against this position that AMO has responded to the draft legislation.

### 1.1 Objectives of Draft Legislation

#### Province's Reasons for Legislating Apartments in Houses

The consultation paper states that apartments in houses are supported by the Government because they:

- are a source of affordable housing for people who need it, and at no or little cost to the taxpayer;
- can ease the financial burden of home ownership by providing an additional source of income;
- mean jobs for people in the renovation and building supply business;
- are environmentally friendly because they use existing housing better and support public services and systems, such as transit, instead of contributing to urban sprawl; and

However, given both the limitations on capital improvements imposed by rent control legislation and the lack of any provincial budgetary funds allocated to housing renovation programs (e.g. OHRP, convert-to-rent), AMO questions whether homeowners will be able to pay the required costs of renovating units to bring them up to standards.

The objective to achieve better use of existing infrastructure and limiting urban sprawl is a planning objective which has been gaining increasing support at both levels of government. However, there are many policies for achieving these objectives. AMO believes that the specific policies appropriate for achieving these objectives should be determined locally.

Similarly, the objective to "support neighbourhood diversity" is clearly a matter of local policy and neighbourhood design.

#### Legislating Means of Achieving Provincial Objectives

The above discussion of the reasons or objectives for permitting "an apartment in a house" reveals a fundamental question: is this legislative approach the appropriate means for the Province to achieve its own planning and housing objectives? AMO believes the Province's approach is inappropriate. The Association outlines its reasons below.

## 2 FUNDAMENTAL CONCERNS

### 2.1 Expression of Provincial Policies

#### Implications for Commission on Planning and Development Reform in Ontario (Sewell Commission)

The Sewell Commission is currently reviewing the land use planning system towards making recommendations for reform. One of the key elements of this review is to clearly define provincial and municipal roles in setting planning goals and policies. AMO's position has been that the Commission should develop a statement of provincial goals to reflect the following definition of provincial and municipal roles in planning policy: the Province should set goals and objectives for planning and municipalities should identify policies for implementing these. While the proposals of the Commission are still the subject of review and debate, there is agreement between AMO and the Commission



AMO's survey of the 104 priority municipalities conducted in the August 1991 revealed that many municipalities were in the process of or had completed housing intensification studies, public meetings or municipal housing statements to implement the provisions of the housing policy statement.

Secondly, this legislation would apply to all 832 municipalities, 728 of which were not required to implement the policy statement by the August 1991 deadline.

AMO would also argue that this legislative action is contrary to the housing policy statement. Section 5.1.a sets out three criteria that have to be met before permitting forms of housing intensification. The section requires that areas be designated within official plans where each form of Residential Intensification will be permitted. These uses are to be permitted in areas which meet the following criteria:

- the physical potential of the existing building stock or previously developed sites can accommodate the identified forms of Residential Intensification;
- the existing services can support new households in the affected area; and,
- the potential demand for these forms of accommodation, based on the housing needs of the composition of households in the broader community, in relation to the typical characteristics of units which could be produced through the various forms of Residential Intensification, can be demonstrated.

The policy statement therefore recognizes that intensification is not possible or appropriate in all residential areas. In its report, *The Implementation of the Land Use Planning for Housing Policy Statement*, AMO argued that the criteria should include local criteria such as the compatibility of a proposal with the existing character of a neighbourhood in order to address concerns about the impacts of housing intensification on existing neighbourhoods. AMO further argued that the criteria for change should be determined through a local consultative process and not be centrally established and applied uniformly across all communities.

neighbourhoods, an action which will be implemented locally through required amendments to zoning by-laws and official plans. Municipalities will be held responsible and accountable for these changes yet have not had input and in most cases did not support the policy change in the first place.

It goes without saying that complaints and concerns about the introduction of changes such as new permitted housing forms into neighbourhoods are directed to municipal staff and politicians. With respect to accessory apartments most municipalities already have enough experience to know what this will mean. For illustration, complaints data for City of Brampton for a one month period in 1992 revealed that of 161 complaints, 61% were related to accessory apartments and 25% of the total were specifically about the existence of an accessory unit.<sup>1</sup>

Under the *Planning Act* municipalities are required to conduct public meetings on official plan and zoning by-law amendments. Site specific applications dealt with at committees of adjustment are also open to public input. This legislation will effectively override approved zoning by-laws without public consultation and without appeal. The Province will also not be consulting the public on this legislative change.

AMO argued in its report *The Implementation of the Land Use Planning for Housing Policy Statement* that as-of-right zoning virtually removes any possibility of locally determined criteria for community change. Just as neighbourhoods have developed with varying local criteria within a broad planning framework, so should neighbourhoods be able to change in the same manner. To date, the Provincial Government has focused on centrally mandated criteria for change rather than establishing a planning framework and consultative process for determining the criteria for community change at the local level.

## 2.3 Municipal Authority to Establish Local Housing Policies and Priorities

As stated previously, most of the 104 "priority" municipalities required to implement the housing policy statement by August 1991 have conducted housing and planning studies and developed official plan policies and



flexibility in making decisions on the best way to allocate resources in support of the existing housing stock.

In sum, AMO has advocated and municipalities have begun to take on a more active role in developing comprehensive housing policies for local communities. And in some cases the Province has recognized the benefits of supporting and encouraging this role. However, with this proposed legislative action the Province is both negating municipal efforts to plan for and develop housing intensification policies appropriate to their communities and reducing the municipal authority to implement these policies.

## 2.4 Planning Implications

### Servicing

Municipalities are also concerned about the impacts of accessory units on existing hard and soft services. Servicing capacities are based on the design density of residential developments. When residential areas are zoned or rezoned, planning studies are conducted to ensure that adequate servicing is available or can be provided. These studies are conducted prior to development or rezoning.

Servicing concerns include sewer and water capacities, and the ability to accommodate increased parking and traffic demands. For rural areas it includes the environmental impact of additional units on residential lots currently serviced by wells and/or septic systems. For soft services it includes uncertainty as to whether increased demands on schools and recreation facilities (some of which are currently at or over capacity) can be accommodated.

Therefore this legislation not only overrides current zoning but also excludes "planning" to ensure that the necessary services are available to accommodate the residential densities permitted.

Inequities result from allowing growth as-of-right on a broad basis without clarifying whether this growth should be financed out of general municipal revenues or from development charges. Whether the net growth-related capital costs of intensification are leviable or not remains an issue which to date has not been addressed.



decisions made by the Province which have not been subject to public consultation and appeal.

- AMO has advocated and municipalities have begun to take on a more active role in developing comprehensive housing policies for local communities. This proposed legislative action will both negate municipal efforts to plan for and develop housing intensification policies appropriate to their communities and will reduce the municipal authority to implement these policies.
- The legislation excludes "planning" to ensure that the necessary services are available to accommodate the residential densities permitted.

Based on the above fundamental issues AMO is strongly opposed to the draft legislation to permit "an apartment in a house" and calls on the Province not to proceed with the introduction of legislation.

#### Recommendation 1

AMO strongly opposes the draft legislation to permit "an apartment in a house" as-of-right and calls on the Province to withdraw its proposed legislation.

### 3 Other Legislative Issues Addressed in the Consultation Paper

There are two other legislative changes introduced in the consultation paper: changes regarding garden suites and unrelated persons forming single housekeeping units.

#### 3.1 Garden Suites

Originally called "granny flats", garden suites are a special class of accessory units. They are separate, self-contained units that are typically located in the side or rear yards of an existing house. They usually house an

## Recommendation 2

AMO recommends that the proposed amendments pertaining to garden suites be subject to the following clarifications:

- that the terms and conditions of the agreements include restricting the occupancy of garden suites to elderly or disabled relatives of the homeowner; and
- that express provision be made that municipalities continue to have the authority to regulate the type of construction, size, height or bulk of these suites (i.e. an enabling statement in the Planning Act allowing municipalities to apply site plan control to garden suites).

### 3.2 Unrelated Persons Forming a Single Housekeeping Unit

The Province intends to amend the *Planning Act* to make it clearer that zoning distinctions based on the relationships between people who form a single housekeeping unit (not defined) are not permitted. The changes would involve repealing section 35, and the inclusion of provisions addressing the related/unrelated issue in section 31 and 34, and in the new section 35.

In 1989 the Province enacted Section 34a under the *Planning Act*, 1983 (Bill 128) which declared provisions in municipal zoning and interim control by-laws distinguishing between related and unrelated persons in respect to the occupancy of a building to be of no force or effect.

At first it may appear that the inclusion in the consultation paper of this issue is an anomaly. However, it is consistent with one of the reasons AMO believes the Province has for pursuing these legislative amendments. While this is an issue more to do with lodging and rooming house, it arises in response again to the Ministry's assertion that municipalities are not appropriately implementing the provisions related to housing intensification as set out in the housing policy statement.

The Board's decision included the following significant observations and arguments:

- The Ministries' definition of a lodging house included the words "which functions as a single housekeeping unit." The Board argued that these words are vague and that it would be very difficult to prove in court whether a household was or was not functioning as a single housekeeping unit.
- The Board noted in its decision that there was an undercurrent that ran through the hearing and in particular by counsel for the appellant Ministries and their witnesses. The concern hinted from time to time was that somehow the by-law was contrary to Section 34a of the *Planning Act* or in violation of the Canadian Charter of Rights and Freedoms. While no credible evidence was given to support the concern and the matter was not argued before the Board, it was nevertheless present throughout the hearing and for that reason the Board mentioned it in its decision.
- The Board stated that "if it is in fact a group of people living together, regardless of whether they are related to each other or not, but living together and paying rent in some way for their accommodation, then it is a lodging house and it ought to be regulated as such. .... Exhibit Number 28 [the Ministries' proposed lodging house definition] is really nothing more than a device to avoid regulation in some circumstances that ought to be caught [i.e. regulated]."
- "The Board believes there is a difference between the usual detached home of 3.1 or less persons per household and a lodging house as permitted by the By-Law. .... Limiting the density by use of a minimum distance separation formula, and a limit on the number of occupants of a building, are perfectly legitimate planning tools, and in our view, desirable planning tools when the built form of all the residential stock looks like low density housing and will remain so."

AMO is very concerned that the Province is resorting to this legislative action in response to its unsuccessful appeal to the OMB. In many ways this



#### 4.1 Implement Regulatory, Enforcement and Financial Measures

Regulatory and enforcement issues have come forward in response to concerns about unsatisfactory housing conditions which could lead to substandard housing. Also, part of the exercise of developing housing intensification policies involves trying to increase neighbourhood acceptance of these housing forms. In many cases, community acceptance would be increased if there were improvements in regulations and the enforcement of municipal by-laws.

In addressing these regulatory and enforcement issues, AMO called on the Province to make a commitment to a process for the resolution of housing intensification issues. AMO has argued that municipalities need assistance in achieving enforcement objectives through either regulation or licensing authorities.

##### Right of Entry

In its report AMO called on the Province to amend the *Planning Act* to provide municipal inspectors increased powers of entry to ensure compliance with municipal zoning and property standards by-laws. This recommendation was made in response to the limited ability of municipalities to enforce zoning and property standards by-laws due to inadequate right-of-entry powers. For example, if municipal inspectors suspect that a building has been converted in contravention of municipal standards, they are often unable to gain entry into the residence in order to prove the violation. If denied entry, they are required under the *Planning Act* to obtain a search warrant, specifying the evidence to be seized. If the violation relates to the building's physical condition it is not usually possible to identify the type of evidence to be seized, if any.

##### Recommendation 4

AMO supports the proposed amendment to sections 31 and 49 of the *Planning Act* to allow the issuance of search warrants, without requiring that evidence be seized, or even specified.

In its report on the housing policy statement, AMO also made the recommendation that accessory units be assessed for residential property taxes as separate units. Regardless of the appropriate mechanism for assessment (e.g. by assessing as duplexes or some other way), AMO's principle was that under the *Assessment Act* a dwelling with an identifiable accessory unit should generate more tax assessment than a dwelling with a finished, and unrented, basement. The appropriate means of assessment to achieve this should be determined.

#### Licensing Accessory Units and Owner Occupancy Controls

Some municipalities have expressed concern with property maintenance standards in absentee-owner properties. In its report, AMO suggested that municipalities be permitted to pass by-laws licensing and regulating accessory units. This was based on the argument that absentee-owned rented-out houses merit additional controls because they generate a grossly disproportionate number of complaints and problems for municipal by-law officers. It was not intended to prohibit absentee-owned units; owner occupancy units would be freed of most controls while absentee-owned ones would be more strictly controlled through licensing to achieve regulatory objectives such as property maintenance.

#### Court Procedures

Property standards by-laws attempt to address some of the problems associated with poor property maintenance. However, AMO noted in its report that cases are slow to get to court, often fines or other costs cannot be collected, or enforcement of prohibition orders requires extensive work and effort to take the case through the courts. AMO therefore proposed enforcement changes to achieve a more expeditious and cost-effective process for dealing with these issues.

Anyone contravening a municipal by-law is liable to a conviction; where a conviction is entered, an order may be made to prohibit the continuation or repetition of the offence by the persons convicted. Currently, a provincial judge is the issuing judge of a prohibition order. To enforce such an order, an application must be made to a higher court, despite the fact that the order was issued by the provincial court. This results in additional time and costs and make the enforcement of the prohibition order impractical.

## 5 CONCLUSIONS

AMO's response focuses on questioning the fundamental basis of the Province's policy decision. The Association believes that the Province should not resort to this legislative approach for achieving its housing objectives through the land use planning system and that the Sewell Commission should continue to be the forum for recommending the appropriate means for the Province to express its goals and objectives for the land use planning system; the action is contrary to the accepted practice of policy statements as the means for expressing provincial interest and is contrary to the current requirements of the housing policy statement; it is an unwarranted interference with municipal zoning authority; the proposed legislative action will both negate municipal efforts to plan for and develop housing intensification policies appropriate to their communities and will reduce the municipal authority to implement these policies; and the legislation excludes "planning" to ensure that the necessary services are available to accommodate the residential densities permitted.

Based on these arguments, AMO is strongly opposed to the Province's draft legislation to permit "an apartment in a house" and calls on the Province not to proceed with the introduction of legislation.



## ENDNOTES

1. Region of Peel Consultation Committee, *Position Paper: Accessory Apartments and Rooming, Boarding and Lodging Houses*, June 1992 (unpublished; not Council-endorsed).
2. Ontario Municipal Board, R 9000436, Decision delivered by A.J.L. Chapman, January 22, 1992.
3. Region of Peel Consultation Committee, *Position Paper*.

## APPENDIX A - PREVIOUS AMO HOUSING INTENSIFICATION RECOMMENDATIONS

The following recommendations were contained in AMO's report, *Implementation of the Land Use Planning for Housing Policy Statement: Issues and Recommendations* (Report 91-19).

- Recommendation 15                      AMO recommends a housing intensification policy which requires that municipalities designate areas within their official plans where each form of Residential Intensification will be permitted. These uses should be permitted in areas which meet the stated provincial criteria and locally determined criteria for as-of-right conversions.
- Recommendation 16                      The *Planning Act* should be amended to provide municipal inspectors powers of entry to ensure compliance with municipal zoning and property standards by-laws as is provided under the proposed amendments to the Building Code (Bill 112).
- Recommendation 17                      AMO recommends the amendment of Court Procedures to permit a Prohibition Order to be enforced by the Court granting such an order.
- Recommendation 18                      AMO recommends that legislation be enacted to permit the creation of Municipal By-Law Courts to deal with all by-law infractions and Building Code violations.
- Recommendation 19                      AMO recommends that the *Municipal Act* be amended to permit municipalities to pass by-laws for licensing and regulating accessory units.
- Recommendation 20                      AMO recommends amending Sections 38 (Temporary Use By-Laws) and 44 (Minor Variances) of the *Planning Act* to permit municipalities to enter into agreements with owners as a condition of permission granted under the authority of those Sections, and to provide that these agreements are able to be registered against the land to which they apply and enforceable against any and all subsequent owners of the land.
- Recommendation 21                      AMO recommends that the Province introduce landlord and tenant legislation that recognizes the unique characteristics of owner-occupancy in order to provide a further incentive for homeowners to provide accessory units.

## APPENDIX B - ACKNOWLEDGMENTS

The Association of Municipalities of Ontario would like to thank the following members of its Housing Task Force who volunteered their time to help produce this response.

Robert Brown, Councillor, City of Waterloo  
Marni Cappe, Manager, Housing Policy, Regional Municipality of Ottawa-Carleton  
Gregg Barrett, Planning Administrator, City of London  
Terry Kingsmill, Housing Analyst, Regional Municipality of Peel  
Howard Moscoe, Councillor, Municipality of Metropolitan Toronto  
John Robinson, Coordinator of Housing Loans, City of Hamilton  
Vykki Silzer, Sr. Planner, City of Toronto  
Ray Steinke, Planner, City of Guelph  
Keith Ward, Director, Policy and Development, Peel Non-Profit Housing (Chair)  
Wendy Wright, Commissioner of Planning, City of Cambridge

Evelyn S. Ruppert, Senior Policy Analyst (AMO staff)



Please direct all enquiries about AMO  
publications to:

AMO Publications Department  
250 Bloor Street East  
Suite 701  
Toronto, Ontario  
M4W 1E6

Ph. (416) 929-7573  
Fax (416) 929-7574



2a)

CITY CLERK'S DEPARTMENT

MEMORANDUM

\*\*\*\*\*

TO: Tina Agnello, Secretary  
Planning and Development Committee

YOUR FILE:

FROM: Kevin C. Christenson, Secretary  
Transport and Environment Committee

OUR FILE:  
PHONE: 546-2728

SUBJECT: MODIFICATION OF ZONING  
AT BEASLEY PARK

DATE: 1992 October 2

At its meeting held 1992 September 29, City Council adopted Section 19 of the SEVENTEENTH Report for 1992 of the Parks and Recreation Committee as follows:

19. (a) That the Beasley Park Development Plan approved by City Council at its meeting held 1991 August 27, be amended to allow a 9.5 m by 14 m gravel parking area on the east side of the north-south public assumed alley, approximately 47 m south of Cannon Street between Mary and Elgin Streets.
- (b) That the City Parks By-law No. 89-74 be amended accordingly.
- (c) That the Planning and Development Committee be requested to initiate the modification of zoning at Beasley Park to allow residential parking with the Park.

Would you please ensure that this item is placed on the next Planning and Development Committee agenda as directed by City Council.

c.c. V. J. Abraham  
Director of Local Planning

*M. J. Walton*  
*for*  
*Kevin Christenson*





26)

CITY CLERK'S DEPARTMENT

MEMORANDUM

\*\*\*\*\*

TO: Tina Agnello, Secretary  
Planning and Development Committee  
YOUR FILE:

FROM: Kevin C. Christenson, Secretary  
Transport and Environment Committee  
OUR FILE:  
PHONE: 546-2728

SUBJECT: MODIFICATION OF ZONING  
OF WILLIAM CONNELL PARK  
DATE: 1992 October 2

At its meeting held 1992 September 29, City Council adopted Section 21 of the SEVENTEENTH Report for 1992 of the Parks and Recreation Committee as follows:

21. (a) That the Planning and Development Committee be requested to abandon the City Initiated rezoning of the William Connell Park to permit use of this property for a major baseball facility and associated uses, and
- (b) That the Property Department continue negotiations with the Hamilton Board of Education for the exchange of lands of equal size as per the direction of City Council on 1991 July 30.
- (c) That the Park's Division, Public Works Department prepare a capital budget submission to provide for preparation of a Development Plan for William Connell Park, said plan to capitalize on the natural features of the property including existing tree cover, ground vegetation topography, and ponds and to reflect the growing demand for passive green space.

Would you please ensure that this item is placed on the next Planning and Development Committee agenda as directed by City Council.

c.c.

V. J. Abraham  
Director of Local Planning

*For*  
*Kevin Christenson*





2c1

CITY CLERK'S DEPARTMENT

MEMORANDUM

\*\*\*\*\*

TO: Tina Agnello, Secretary  
Planning and Development Committee  
YOUR FILE:

FROM: Kevin C. Christenson, Secretary  
Transport and Environment Committee  
OUR FILE:  
PHONE: 546-2728

SUBJECT: ZONING CHANGE AT DATE: 1992 October 2  
MOHAWK SPORTS PARK AND BERNIE ARBOUR STADIUM

At its meeting held 1992 September 29, City Council adopted Section 22 of the SEVENTEENTH Report for 1992 of the Parks and Recreation Committee as follows:

22. That Section 8 of the Eleventh Report for 1991 of the Parks and Recreation Committee adopted by City Council on 1991 May 14 respecting a Zoning change at Mohawk Sports Park and Bernie Arbour Stadium, "to allow any approved user to obtain a stadium licence to sell beer at the Bernie Arbour Stadium", be rescinded. ADDED AND CARRIED.

Would you please ensure that this item is placed on the next Planning and Development Committee agenda as directed by City Council.

c.c. V. J. Abraham  
Director of Local Planning

*V. J. Watson*  
*for*  
*Kevin Christenson*



CORPORATION OF THE CITY OF HAMILTON

MEMORANDUM

3.

\*\*\*\*\*

TO: Mr. L. King, Building Commissioner      YOUR FILE:  
Mr. J. Schatz, City Clerk  
Mr. R. Sugden, Cultural & Recreation Director  
Chief G. Baker, Fire Department  
Mr. J. Johnston, Human Resources Commissioner  
Mr. J. Hindson, Information Systems Director  
Mr. V. Abraham, Director Local Planning Director  
Mr. M. Mascarenhas, General Manager Municipal Non-Profit Housing  
Mr. D. Vyce, Property Director  
Mr. D. Lobo, Acting Public Works Director  
Mrs. P. Noe Johnson, Solicitor  
Mr. M. Main, Traffic Services Director  
Mr. A. Ross, City Treasurer  
Mr. Kevin Christenson, Parks & Recreation  
Mr. Kevin Christenson, Transport & Environment  
Mrs. Susan Reeder, Finance & Administration  
Mr. J. Pavelka, C.A.O.

FROM: Tina Agnello      OUR FILE:  
Secretary Planning & Development      PHONE: 546-2729

SUBJECT: Request for Circularization on      DATE: 1992 August 21  
Municipal Projects dealing with  
Urban Design Matters to the  
Urban Design Committee

Please provide comments regarding the above noted request by 1992 September 29, so that it may be considered at the Planning & Development meeting of 1992 October 7.

*T. Agnello*

Attach.  
cc/at



# CORPORATION OF THE CITY OF HAMILTON

## MEMORANDUM

\*\*\*\*\*

TO: Mr. J. G. Pavelka  
Acting Chief Administrative Officer  
Department Heads  
Standing Committees of Council

YOUR FILE:

FROM: Tina Agnello, Secretary  
Planning and Development Committee

OUR FILE:  
PHONE: 546-2729

SUBJECT: Request for Circularization on  
Municipal Projects dealing with  
Urban Design Matters to the  
Urban Design Committee

DATE: 1992 May 05

The Planning and Development Committee at its meeting of 1992 March 25 resolved that the report of the Urban Design Committee, dated 1992 March 13, be circulated to all City Departments and Standing Committees for comment.



Attach.

**CITY OF HAMILTON**

**- RECOMMENDATION -**

**DATE:** 1992 March 13  
P5-4-7-13

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Department

**FROM:** Fred Vermeulen, Chairman  
Urban Design Committee

**SUBJECT:** Request that the Urban Design Committee be circulated on  
municipal projects dealing with Urban Design matters.

**RECOMMENDATION:**

That the Urban Design Committee be circulated for future municipal initiated projects requiring the hiring of Urban Design Consultants or dealing with Urban Design matters in order to review and comment on Terms of Reference for projects prior to advertisement; and further,

That this request be forwarded to the various Committees of City Council and City Departments.

F. Vermeulen  
Fred Vermeulen, Chairman  
Urban Design Committee







3a)

# CENTRAL AREA PLAN IMPLEMENTATION COMMITTEE

a Subcommittee of the Planning and Development Committee

c/o CITY HALL, 71 MAIN STREET WEST, HAMILTON, ONTARIO, L8N 3T4

JUN 15 1992

## MEMORANDUM

\*\*\*\*\*

TO: Tina Agnello, Secretary  
Planning and Development Committee  
City Clerk's Department

YOUR FILE:

FROM: Mary Lou Tanner, M.C.I.P.  
CAPIC Coordinator  
Planning and Development Department

OUR FILE: P5-4-3-9  
PHONE: 546-4148

SUBJECT: Request for Circularization on  
Municipal Projects dealing with  
Urban Design Matters to the  
Urban Design Committee

DATE: 1992 June 12

In response to your request of May 5, 1992 regarding the above-noted matter, the CAPIC passed the following resolution:

"That the recommendation of the Chairman of the Urban Design Committee, as contained in his report of 1992 March 13, be *endorsed*."

I hope this information is of assistance to the Planning and Development Committee.

/mlt

*M. L. Tanner*



361

CORPORATION OF THE CITY OF HAMILTON

MEMORANDUM

RECEIVED

AUG 26 1992

\*\*\*\*\*  
TO: Tina Agnello  
Secretary Planning and Development

YOUR FILE: CITY CLERKS

FROM: Peter C. Lampman  
Deputy Building Commissioner  
Building Department

OUR FILE:  
PHONE: 416 546 4653

SUBJECT: Request for Circularization  
Municipal Projects dealing with  
Urban Design Matters to the  
Urban Design Committee

DATE: 1992 August 25

This department has no comments respecting the above noted matter.







3c)

CORPORATION OF THE CITY OF HAMILTON

MEMORANDUM

RECEIVED

\*\*\*\*\*SEP 29 1992\*\*\*\*\*

TO: Ms. Tina Agnello, Secretary  
Planning and Development Committee

YOUR FILE:  
CITY CLERKS

FROM: Mr. G. Baker, Chief  
Hamilton Fire Department

OUR FILE:

SUBJECT: Circularization of Municipal Projects  
To the Urban Design Committee

DATE: September 28, 1992

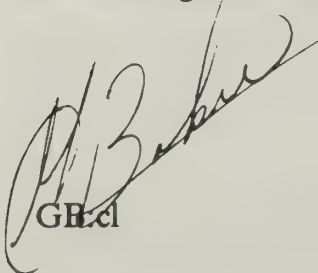
The Hamilton Fire Department presently seeks guidance, advice and direction from numerous municipal departments and Committees with respect to proposed projects, most particularly the construction of new fire stations.

We similarly seek and depend upon information and design criteria provided by consultants, engineers and architects. These professionals take into consideration our design specifications which are based on, but not limited to, functionality, aesthetic impact upon the surrounding neighbourhood and of course cost effectiveness.

We believe this process has resulted in the past in the final construction of a facility which meets current and projected needs, adheres to set budgetary projections and enhances the streetscape.

I am cautious with respect to input from any group which may be well intentioned and yet lack the expertise necessary to fully understand the needs that must be met by the building project they are reviewing. Similarly, I have concerns with respect to the possibility of the commencement of a project being delayed while waiting for a report from a non-jurisdictional committee.

I believe we, as well as other City departments, take all matters possible into our planning. We and our plans must pass the scrutiny of our reporting Committees before proceeding and this again ensures that we are sensitive to public needs.

  
GB:cl





3d)

RECEIVED

SEP 30 1992

LAW DEPARTMENT

MEMORANDUM

CITY CLERKS

TO: Ms. Tina Agnello  
Secretary  
Planning & Development Committee

YOUR FILE:

FROM: Philip R. A. Hooker  
Manager, Corporate & Litigation Services  
Law Department

OUR FILE:  
PHONE: (416) 546-4684

SUBJECT: Request for Circularization on  
Municipal Projects dealing with  
Urban Design Matters to the  
Urban Design Committee

DATE: 1992 September 30

I am in receipt of your memo of August 21, 1992 asking for comments on the March 13, 1992 request that the Urban Design Committee be "circulated for future municipal initiated projects requiring the hiring of Urban Design Consultants or dealing with Urban Design matters in order to review and comment on Terms of Reference for projects prior to advertisement".

In our conversation of September 29, 1992, it appeared that there may be some doubt as to:

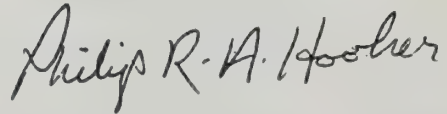
- who constitutes the Urban Design Committee
- its mandate/accountability and qualifications
- which projects they want to review
- etc.

Without such further information, I am unable to make a proper response. In the meantime, the above points remain questions and lead to further questions as to whether another review/approval step, as requested, may possibly/delay civic projects or complicate them.

If members of the Urban Design Committee would also be potential bidders/contractors on the eventual, actual projects, concerns may then arise as to possible conflicts of interest or unfair advantage from Urban Design Committee members having

advance, "inside" knowledge of what is coming or proposed, unless they withdraw, in advance, from possible consideration or bidding on such projects.

This is all we can point out at this time, until more background information is provided.

A handwritten signature in dark ink, reading "Philip R. A. Hooker". The signature is written in a cursive style with a large, stylized 'P' and 'H'.

Philip R. A. Hooker  
Senior Solicitor

PRAH:sr

CORPORATION OF THE CITY OF HAMILTON

MEMORANDUM

3e1  
RECEIVED

OCT. 01 1992

CITY CLERKS

TO: Tina Agnello  
Secretary, Planning and Development

FROM: Murray F. Main, P. Eng.  
Director of Traffic Services  
Traffic Department

OUR FILE:  
PHONE: 546-4580

SUBJECT: Request for Circularization on  
Municipal Projects Dealing with  
Urban Design Matters to the Urban  
Design Committee

DATE: 1992 September 30

In response to your circulation of the report from the Urban Design Committee regarding this request, we offer the following comment.

Given the terms of reference for this Committee, it would appear quite logical that the Committee be involved in as early a stage as possible. On the assumption that the circulation could be accomplished quickly and that the issue of perceived conflict of interest between members of the Committee and future consultants bidding for the work can be resolved, we would support the request.

Having said the above, we would propose that the results of any such study, or any other Municipality initiated project, be circulated not only to the Urban Design Committee but to all other Civic Departments for review and comment. There is some considerable expertise available within the Civic organization which is currently being circumvented by the lack of a circulation process. By initiating a formal circulation of such projects, regardless of statutory requirements, this expertise can be utilized and should result in a better product.

I trust these comments prove useful.

Murray F. Main

RK/ks

c.c. Mr. J. G. Pavelka, Chief Administrative Officer





3F)

**THE CORPORATION OF THE CITY OF HAMILTON  
MEMORANDUM**

\*\*\*\*\*

**TO:** Ms. T. Agnello, Secretary  
Planning and Development Committee

**YOUR FILE:**

**FROM:** Ms. J. McNeilly, Co-ordinator of  
Community Renewal - Public Works

**OUR FILE:**  
**PHONE:** 546-2755

**SUBJECT:** Request for Circularization on Municipal  
Projects Dealing with Urban Design  
Matters to the Urban Design Committee

**DATE:** 1992 October 01

As directed by the Planning and Development Committee, the Public Works Department wishes to offer the following comments on the subject:

Project design, review and implementation of "Urban Design" projects can be extremely lengthy and expensive. The goal of the execution of these projects is to achieve the best results without accessive costs and time delays. The existing project review process is very comprehensive. Most projects co-ordinated through the Public Works Department involve a Citizens Committee, Municipal Urban Design staff and often times outside consultants, Aldermanic Committees and Council. Our fear is that this would not improve the design process, only confuse it.

As the Committee members are aware, the Parks Division of Public Works reports through the Parks and Recreation Committee. The Urban Design Committee is a sub-committee of the Planning and Development Committee. This may cause some jurisdictional confusion.

The Urban Design Committee is comprised of design professionals not employed by the Municipality. We are therefore concerned that, their involvement in the consultation/review process prior to hiring outside consultants may create a conflict of interest. We therefore suggest that the Urban Design Committee not be circulated with Terms of Reference for hiring consultants until these documents are ready for distribution to the general public for tender.

The Public Works Department requests clarification/definition of exactly what "reviewing and commenting" by the Urban Design Committee would entail in order that some of these concerns previously listed can be addressed.

  
JMCN:bk





CITY OF HAMILTON

- RECOMMENDATION -

RECEIVED

DATE: September 29, 1992

SEP 29 1992

REPORT TO: Tina Agnello, Secretary  
Planning and Development Committee

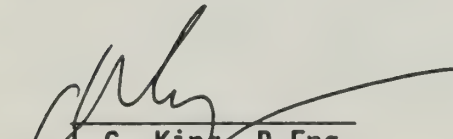
CITY CLERKS

FROM: L.C. King, P. Eng.  
Building Commissioner

SUBJECT: ONTARIO HOME RENEWAL PROGRAMME-DISABLED  
(O.H.R.P.-D.)(92.2.4.2.1.A)

**RECOMMENDATION:**

That Hamilton City Council direct the Mayor to write to the Minister of Housing requesting the Provincial Government provide additional funding for the Ontario Home Renewal Programme -Disabled for the current fiscal year ending March 31, 1993.

  
L.C. King, P.Eng.  
LCK/JHR/dc

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

Approximately a year ago the Building Department, Loans Division was advised by the Ministry of Housing that funding for this very popular and much needed Programme had been financially committed Provincially for the balance of the fiscal year ending March 31. We were also advised that we should continue to take applications, both preliminaries and finals, as it was expected money would be available in April, 1992. The Department complied with the request and continue to process applications on the above understanding.

Since April the Department has constantly pressed the local Provincial Office and although we were assured money would be available this year, the amount and when it would be available were unknown. We continued to process applications and by July we had approximately twenty finalized and at the Provincial Office, but still no allocation. We were then advised that the Programme had been funded for two years but our allocation for the first year was two applications, with the balance of the twenty being funded in the next fiscal year starting April 1, 1993.

At the present time we have between fifty and sixty applications in process and the Province has made no indication when these might be funded, but is extremely doubtful that any of these will receive approval until the next fiscal year, April, 1994. Obviously, by that time most of the applications will have changed substantially requiring complete review including assessments and estimates.

The Programme itself is excellent, however, there are some serious administrative problems including the lack of funding described above. Other problems include lack of definite Municipal budgets so we can maximize dollars and reduce administrative costs. There is also a need for a long term commitment by the Province to the Programme.

The Department has, because of the above financial problems, decided that it is in the best interest of the City and the applicants to cease taking initial applications until the present funding issues are addressed. It is unfair to raise the hopes of applicants that grants might be available if in fact money might not be available until April, 1995.

The Department is continuing to push the government to address these serious problems at the staff level both locally and at Toronto, however, additional political pressure is needed. The Department therefore requests City Council to direct the Mayor to write to the Minister requesting additional funding. The Department has also brought this serious problem to the attention of the Association of Municipalities of Ontario, (AMO).

c.c. Alderman D. Wilson, Alderman, Ward 4

## - RECOMMENDATION -

RECEI

**DATE:** 1992 August 10  
DA-92-29 (A-90-275)  
Bartonville Neighbourhood

AUG 11

CITY CLI

**REPORT TO:** Ms. Tina Agnello, Secretary  
Planning and Development Committee

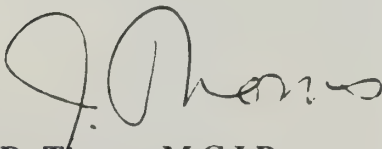
**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Site Plan Control Application DA-92-29 for an addition to a garage at  
2117 King Street East in accordance with the decision for A-90:275

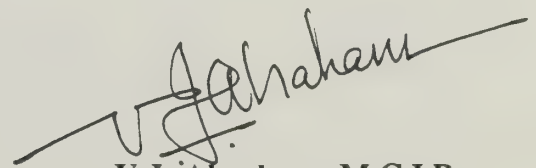
**RECOMMENDATION:**

That approval be given to Site Plan Control Application DA-92-29 by Mr. Russ Mackenzie, owner of the lands at 2117 King Street East for an addition to a garage, subject to the following:

- a) modification to plans related to notes and dimensions as marked in red on the plans; and,
- b) inclusion of the sizes of the proposed plantings in the landscape area as marked in red on the plans.



J.D. Thoms, M.C.I.P.  
Commissioner  
Planning and Development Department



V.J. Abraham, M.C.I.P.  
Director of Local Planning

**BACKGROUND:**

Plans have been submitted for approval of a one storey addition on the north end of the existing automobile repair garage at 2117 King Street East. The applicant has applied for and received Committee of Adjustment approval to allow the addition to be located as close as 2.77 from the north lot line instead of the required 6.0m distance. This approval was subject to the provision of a 1.8 m high visual barrier along the northerly lot line, a minimum 3.0m landscape strip along the same lot line and that the lands be subject to approval of a site plan control agreement showing the proposed addition, visual barrier and landscaped area.



***COMMENTS RECEIVED:***

The Roads Department has advised the following:

1. The construction of this addition will not adversely effect the existing grading.
2. No road allowance widening are required.
3. They would like to see the proposed fence setback 3.0m from the streetline. Any works within the King St. E. or Cochrane Rd. road allowance must conform to the Region's Road Use By-Law or City of Hamilton Streets By-Law respectively.
4. Approval from the City of Hamilton Traffic Department is required for any new or altered access.

The Traffic Department has advised that the application is satisfactory.

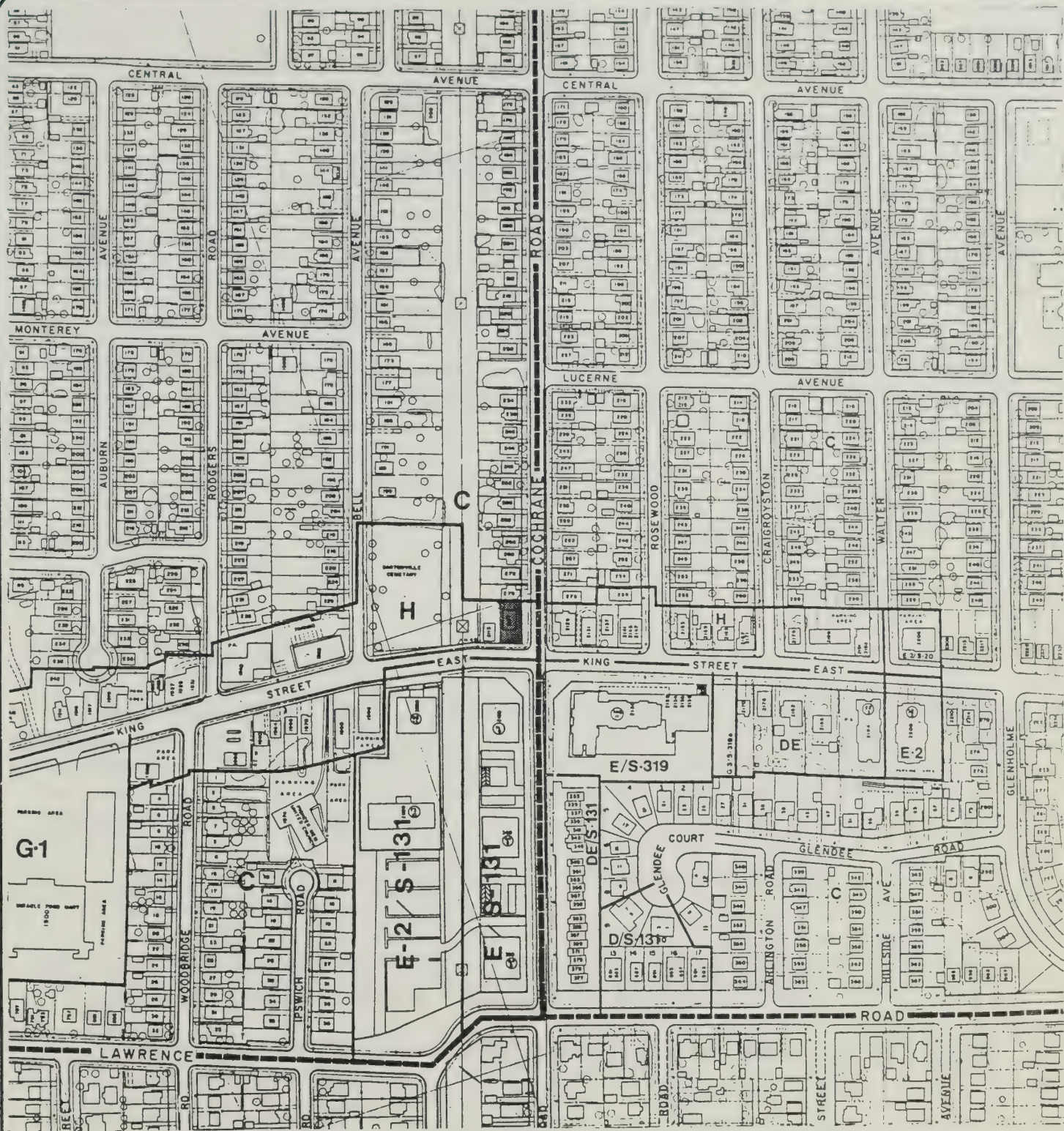
The Building Department has no comment.

***COMMENTS:***

Modifications are required to the plan to clarify dimensions and notes as marked in red in the plan. Also plant material sizes should be clearly identified and have also been marked on the plan.

The plans are satisfactory subject to the modifications as marked in red.

TF/JPS/ma



BARTONVILLE No. 9

GLENVIEW WEST No. 52

City of Hamilton  
Plan Showing  
Lands Subject to  
**Site Plan Control**  
**Application DA-92-29**

Regional Municipality of Hamilton-Wentworth  
Planning and Development Department

LEGEND



Site of the Application

North



Scale  
N.T.S.

Date  
JUNE, 1992

Reference File No.  
DA-92-29

Drawn By  
H.V.





6.

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 30 1992

CITY CLERKS

**DATE:** September 29, 1992  
ZA-92-28  
Barnstown Neighbourhood

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Request for a change in Zoning - No. 255 Rymal Road East.

**RECOMMENDATION:**

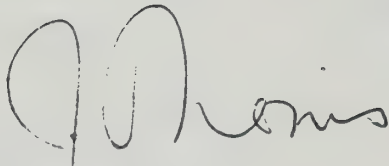
That approval be given to Zoning Application 92-28, Alexander Stoller and Enzo Didiodato, owners, requesting a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, to permit the creation of four (4) lots for single-family dwellings, for the property located at 255 Rymal Road East, as shown on the attached map marked as APPENDIX "A", on the following basis:

- i) That the subject lands be rezoned from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District;
- ii) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593, and Zoning District Map E-18D for presentation to City Council; and,
- iii) That the proposed change in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

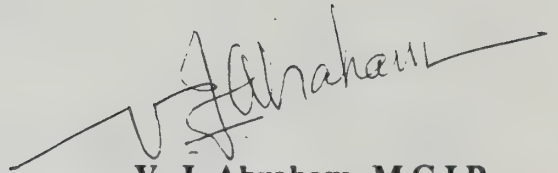
**EXPLANATORY NOTE:**

The purpose of the By-Law is to provide for a change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District, for the property located at 255 Rymal Road East, as shown on the attached map marked as APPENDIX "A".

The effect of the by-law is to allow the creation of four (4) building lots for single-family dwellings fronting onto Rymal Road and Massena Drive. The exiting single-family dwelling will be retained as a corner lot.



**J. D. Thoms, M.C.I.P.**  
**Commissioner**  
**Planning and Development Department**



**V. J. Abraham, M.C.I.P.**  
**Director of Local Planning**

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

- Proposal

Upon approval and finalization of this application, the intent is to sever the lands to create four (4) lots for single-family dwellings. The existing single-family dwelling will be retained on a lot fronting onto Rymal Road and three (3) lots will front Massena Drive.

***APPLICANT:***

Alexander Stoller and Enzo Didiodato, owners.

***LOT SIZE AND AREA:***

- 45.72 m (150.0 ft.) of lot frontage on Rymal Road East;
- 42.672 m (140.0 ft.) of lot frontage on Massena Drive;
- 1902.09 m<sup>2</sup> (20,474.59 S.F.) of lot area.

***LAND USE AND ZONING:***

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	Single-Family Dwelling	"AA" (Agricultural District)
<u>Surrounding Lands</u>		
to the north, east, and west	Single-Family Dwelling	"C" (Urban Protected Residential, etc.) District
to the south	Mount Hamilton Cemetery	"AA" (Agricultural District)

**OFFICIAL PLAN:**

The subject lands are designated **Residential** on Schedule A - Land Use Concept of the Official Plan. The following policies should be noted:

- "A.2.1.1                      The primary uses permitted in the areas designated on Schedule "A" as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- A.2.1.8                      It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2."

In addition, policies from Subsection A.3.4. - Division of Land should be noted:

- "A.3.4.1                      In accordance with the intent of the Regional Official Plan, consents to sever individual parcels of land within the City will generally be discouraged and limited in accordance with the following provisions:
- i)            Severances to create new lots where adequate municipal sewer and water services are not available will be discouraged;
  - ii)          Severances will be discouraged which do not comply with the Development and Servicing Extension policies of Subsection B.1 and the severance policies of the Regional Official Plan; and,
  - iii)        Severances will be discouraged where such severance would make it difficult to assemble adequate parcels of land which would permit planned development."

Further, policies from Subsection C.7 Residential Environment and Housing Policy Should be noted:

- "C.7.1                      In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity:
- i)            Provision and maintenance of adequate off-street parking;



- C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value.
- C.7.3 Council will ensure that the local RESIDENTIAL ENVIRONMENT is of a condition and variety satisfactory to meet the changing needs of area residents. Accordingly, Council will:
- i) Encourage the maintenance of RESIDENTIAL properties subject to the provisions of Subsection C.5;
  - iii) Encourage RESIDENTIAL development that provides a range of types and tenure to satisfy the needs of the residents at densities and scales compatible with the established development pattern;"

The proposal does not conflict with the intent of the Official Plan.

#### ***NEIGHBOURHOOD PLAN:***

The lands are designated "SINGLE AND DOUBLE RESIDENTIAL" on the approved Barnstown Neighbourhood Plan. The proposal complies with the intent of the Plan.

#### ***RESULTS OF CIRCULARIZATION:***

- The following Departments and Agencies have no comment or objections:
  - Hamilton Regional Conservation Authority; and,
  - Building Department.
- The Roads Department has advised that:

"There are public watermains and separate storm and sanitary sewers available to service these lands.

According to our records, the Region has previously acquired the required road allowance widenings on Rymal Road by Misc. Plan No. 761. Therefore we do not anticipate any further road allowances widenings at this time.

Any works which may occur within the Rymal Road road allowance, as widened or the Massena Drive road allowance must conform to their respective Streets By-laws.

Access to the new lots is to be on Massena Drive only and not Rymal Road. We also require that the one foot reserve shown as Block 67 on 62M-663 be lifted and all outstanding servicing costs be paid to the City of Hamilton /Region. We recommend that the subject lands be developed through an agreement with the City/Region which would require that the applicant/owner submit grading plans on these lots to the satisfaction of the Commissioner of Transportation and Environmental Services."

- The Traffic Department has forwarded the following comment:

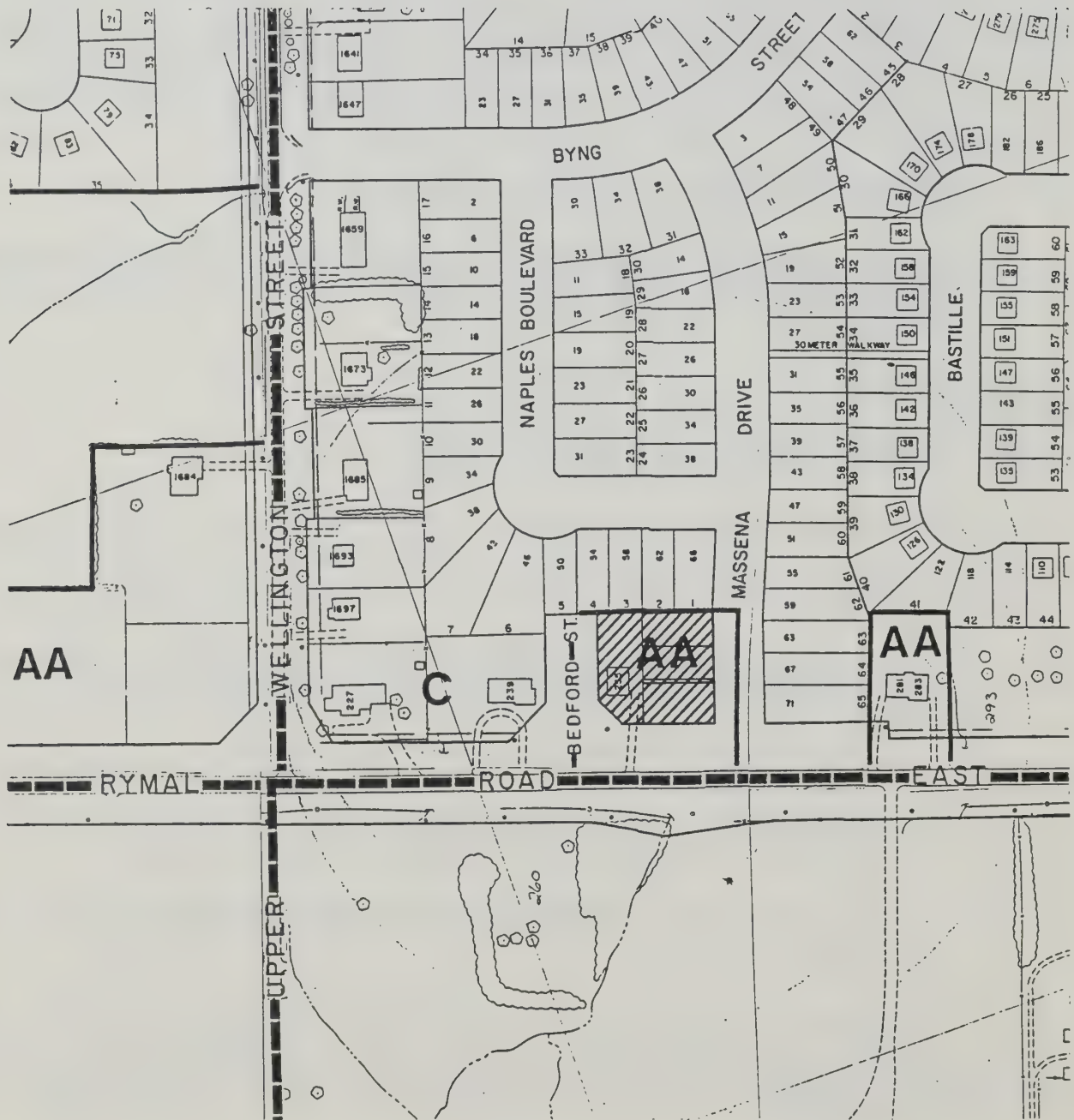
"We have reviewed the above-mentioned application and find it satisfactory provided that the properties to be severed which abut Massena Drive have exclusive access via Massena."

#### **COMMENTS:**

1. The proposal does not conflict with the intent of the Official Plan.
2. The proposal complies with the intent of the approved Barnstown Neighbourhood Plan.
3. The proposal has merit and can be supported for the following reasons:
  - i) it implements the intent of the approved Barnstown Neighbourhood Plan which designates the lands "SINGLE AND DOUBLE RESIDENTIAL";
  - ii) it represents infill within an established residential area;
  - iii) the proposed "C" (Urban Protected Residential, etc.) District is consistent with the established single-family residential character of the area; and,
  - iv) the proposal serves to complete the existing pattern of development on Massena Drive.
4. With respect to the Roads Department comments regarding lifting of the one foot reserve and submission of grading plans on these lots, it should be noted that these requirements can be addressed at the land severance stage. To date, a Land Severance Application has yet to be filed.

#### **CONCLUSION:**

Based on the foregoing, the application can be supported.



# Legend



Site of the Application



ZA-92-28  
APPENDIX A



7

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

**RECEIVED**

SEP 30 1992

**DATE:** September 30, 1992  
ZA-92-10  
Durand Neighbourhood

CITY CLERKS

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

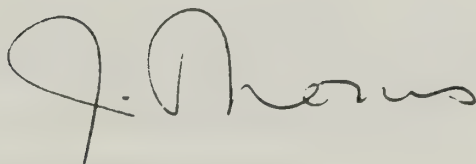
**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:** Request for a modification in Zoning - No. 113 Charles Street.

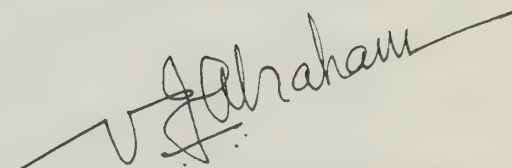
**RECOMMENDATION:**

That Zoning Application 92-10, John Foss, owner, requesting a modification to the "E-3" (High Density Multiple Dwellings) District to permit limited commercial uses, for the property located at 113 Charles Street, as shown the attached map marked as APPENDIX "A", be **DENIED** for the following reasons:

- i) it conflicts with the intent of the Official Plan in that the proposed specialty commercial uses would not serve the daily needs of the surrounding residents;
- ii) it conflicts with the intent of the approved Durand Neighbourhood Plan which designates the property "LOW DENSITY APARTMENTS"; and,
- iii) it conflicts with the intent of the "MacNab Charles Heritage District Plan" which permits commercial uses only within existing heritage buildings to facilitate their maintenance and preservation.



**J. D. Thoms, M.C.I.P.**  
Commissioner  
Planning and Development Department



**V. J. Abraham, M.C.I.P.**  
Director of Local Planning

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

N/A

**BACKGROUND:**

- Proposal

It is the applicant's intention to modify the "E-3" (High Density Multiple Dwellings) District to permit limited commercial uses within a proposed **new building/structure**, for the property located at No. 113 Charles Street.

- By-law No. 90-144 - MacNab-Charles Heritage District

At its meeting of January 30, 1990, the Planning and Development Committee adopted the Final Plan for the MacNab-Charles Heritage District. The Plan established the boundaries of the District (see APPENDIX "B"); identified the need to undertake an initiative to pass an Official Plan Amendment to establish the District as a Special Policy Area; and to undertake a modification in zoning to permit limited commercial uses (professional offices; art gallery; bookstore) in the existing heritage buildings only.

By-law No. 90-144, which established the District boundaries, was passed by City Council on May 8, 1990 and was approved by the Ontario Municipal Board at its hearing held on March 25, 1991, at which time the Board was informed that no objections were received to the By-law. The Board subsequently approved By-law No. 90-144, subject to the City fulfilling the following conditions:

- i) The By-law designating the MacNab Presbyterian Church under Part IV of the Ontario Heritage Act has been repealed; and,
- ii) The Official Plan and Zoning By-law Amendments recommended in Section 4.3 of Part 2 of the Report on the MacNab-Charles Heritage District, dated November 1989, are in force.

- Official Plan Amendment No. 102 and By-law No. 91-176

Planning and Development Committee and City Council, at their meetings held August 21, 1991 and August 27, 1991, respectively, approved the recommendation to establish a "Special Policy Area", and to modify the established "E-3" (High Density Multiple Dwellings) District to permit limited commercial uses within **existing buildings** noted in the final plan for the MacNab-Charles Heritage District .

Upon circularization of the By-law No. 90-176 the Board received an objection related to a technical error in the dimensions of the lands on Schedule "A" of the by-law.

- By-law 92-036

Planning and Development Committee and City Council, at their meetings held January 8, 1992 and January 14, 1991, respectively, approved the recommendation that the City Solicitor prepare a by-law (92-036) to delete Schedule "A" of By-law No. 91-176 and replace it with a revised Schedule "A" to correct the technical error in dimensions of the subject lands.

- Up-date

The O.M.B has dismissed the appeal to By-law 91-176. By-law(s) 92-036 and 91-176 came into effect May 19, 1992 on the day of the passing of Official Plan Amendment No. 102 by The Regional Municipality of Hamilton-Wentworth. By-law 91-144 which establishes the MacNab-Charles Heritage District boundaries was approved on June 25, 1992 by order of the O.M.B.

***LOT SIZE AND AREA:***

- 8.83 m (29.0 ft.) of lot frontage on Charles Street;
- 30.48 m (100.0 ft.) of lot depth; and,
- 269.1 m<sup>2</sup> (2897.07 sq.ft.) of lot area.

***LAND USE AND ZONING:***

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	vacant	E-3" (High Density Multiple Dwellings) District
<u>Surrounding Lands</u>		
to the north	Semi-detached dwelling, TH&B railway line, Hamilton City Hall, and Whitehern	"E-3"(High Density Multiple District Dwellings) District modified and "HI" (Civic Centre Protected Districts)
to the south and west	multiple dwellings	"E-3" (High Density and Multiple Dwellings) District
to the east	MacNab Street Presbyterian church	"E-3" (High Density Multiple Dwellings) District modified

***OFFICIAL PLAN:***

The subject lands are designated ***RESIDENTIAL*** on Schedule A - Land Use Concept of the Official Plan. The following policies should be noted:

- "A.2.1.1                      The primary uses permitted in the areas designated on Schedule "A" as ***RESIDENTIAL*** will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.



A.2.1.3 Within areas designated RESIDENTIAL, land uses compatible to dwellings and deemed necessary by Council to serve the needs of local residents will be permitted, including, but not limited to:

- iv) Limited individual or groups of commercial uses on sites not exceeding .4 hectare in area, excluding Automobile Service Stations, in accordance with the Local Commercial Uses and General Provisions set out in Subsection A.2.2 of this Plan."

In addition, the policies from Subsection A.2.2 - Commercial Uses should be noted:

"A.2.2.25 The LOCAL COMMERCIAL category applies to groups of, or individual commercial establishments and local business and professional offices serving the daily retail needs of surrounding residents, and primarily dependent upon pedestrian access.

A.2.2.26 The maximum site areas of any LOCAL COMMERCIAL development will not exceed .4 hectare in keeping with the intention that LOCAL COMMERCIAL facilities are to serve local Residential areas only with convenience goods and personal services."

The subject lands are also located within *SPECIAL POLICY AREA 3* on Schedule B. The following policies apply to the proposal:

"A.2.9.3.1 The future viability and health of the Central Policy Area will be largely dependent on the quality and suitability of Residential opportunities in close proximity to the downtown. Accordingly, the following policies to promote and protect housing within the area shown as SPECIAL POLICY AREA 3 on Schedule "B" will apply in addition to all the Residential policies of Subsections A.2.1 and C.7, and Policy A.2.8.1(ii):

- i) It is the intent of Council to strengthen the Residential function of this AREA to complement the multi-use nature of the Central Policy Area, to foster a wider choice in housing opportunities for all residents of the City, and to increase the resident population; and,
- iii) Council will encourage the relocation of non-Residential uses from predominantly stable Residential areas where the impacts of such use(s) cannot be effectively mitigated by means of, but not limited to, landscaping and buffering, building orientation and alterations to traffic flows."

The above policy is intended to promote and protect housing in close proximity to the downtown. Accordingly, the relocation of non-residential uses from predominantly stable residential areas, where the impacts of such uses can not be effectively mitigated, is encouraged. As such appropriate buffering, landscaping, etc. must be provided.

In accordance with policies A.2.2.25 and A.2.2.26, limited commercial uses may be permitted in the **RESIDENTIAL** designation, provided they are intended to serve the daily needs of surrounding residents.

However, the proposed commercial uses are specialty type uses (business and professional offices and small retail operations such as art galleries, bookstores etc.) which would not serve the immediate residents. Based on the foregoing, the proposed rezoning does not comply with the **RESIDENTIAL** designation. If the application is approved, an amendment to the Official Plan would be required to establish a "Special Policy Area" to permit the intended uses.

#### **NEIGHBOURHOOD PLAN:**

The lands are designated "LOW DENSITY APARTMENTS" on the approved Durand Neighbourhood plan. The proposal does not comply with the intent of the Plan. Approval of the application would require a redesignation to "COMMERCIAL AND APARTMENTS-HERITAGE CONSERVATION DISTRICT".

#### **RESULTS OF CIRCULARIZATION:**

- The Hamilton Region Conservation Authority has reviewed the above-mentioned proposal and does not have any objection.
- Go Transit has reviewed the above-mentioned proposal and has advised the following:

" We have reviewed the documents and while we have no concerns with the proposed land development proposal, there are some comments which should be taken into consideration.

As you may already know, Go transit is studying a proposal to reroute Go Rail service from the existing Hamilton VIA/GO Rail Station to a newly design T.H. & B. Station. Furthermore, the volume of freight traffic along the CP tracks adjacent to the captioned site increasing, consequently, there may be a corresponding increase in noise levels from the rail traffic. However, if appropriate noise abatement techniques are implemented by the developer, this should not be a problem."

- The Hamilton-Wentworth Engineering Department has advised that:

"There are public watermains and combined storm and sanitary sewers available to service these lands.

In the absence of any details shown, we advise that any works which may occur within the Charles Street road allowance must conform to the City of Hamilton Street By-law.

The Traffic Department is to comment on access design and location.

Since grading, landscaping matters etc., have not been indicated on the site plan, the City may wish to consider developing these lands through site plan control."

- The Building Department has advised that:

- "1. Commercial uses are not permitted in an E-3 zoning district.
2. The uses and special requirements of By-law 91-176 as amended by By-law 92-036 (both by-laws are not final) pertain to the existing buildings not a proposed building.
3. The new building shall conform to the yard requirements of Section 11 Of By-law 6593.
4. Only one principal building containing residential uses is permitted on a lot.
5. The actual lands affected by this zoning application appear to be less than 30'0" width.
6. Verify the actual dimensions of the lands."

- The Traffic Department has advised that:

"Subject to the required parking being provided on site, we find the request to allow this property to be included in the Heritage Conservation District to be satisfactory. It should however, be noted that this property is one of the few remaining undeveloped properties in this area that could provide off-street parking for the adjacent commercial sites. As we commented when the Heritage Conservation District was proposed, there appears to be few opportunities in this area to provide off-street parking and the proposed uses will generate parking demand. Parking on the neighbouring streets is limited and heavily utilized."

- LACAC has advised the following:

"The MacNab-Charles Heritage Conservation District Report, published November, 1989 offers general guidelines for proposed alterations, demolitions or new construction:

(From Part I, Background Study, section 6.2)

'In accordance with the provisions of the Ontario Heritage Act, 1983, council must give approval for proposed alterations, demolitions or new construction within a Designated Heritage Conservation District. The District Advisory Committee and LACAC make recommendations to Council on the proposed changes.'



(From Part II, The Plan, section 2.2.4)

'In evaluating the appropriateness of a new proposal, the design must be reviewed on the basis of both its individual design and its contextual merit, particularly in the case of an Historic District where the streetscape, as a whole, is of prime importance.'

For more specific aspects of the design guidelines (height, setback, orientation, etc.), please refer to Part II, section 2.2.4.

It should be stressed that the building should have a **residential character**, whether its use be residential or commercial. Of primary concern is that the prescribed guidelines (detailed in the MacNab-Charles Heritage Conservation District Report and the Ontario Heritage Act) be adhered to in any construction."

#### **COMMENTS:**

1. The proposal does not comply with the Official Plan. Approval would require an Official Plan Amendment to establish a "Special Policy Area" to permit limited commercial uses within the new building/structure.
2. The proposal does not comply with the approved Durand Neighbourhood Plan. Approval of the application would require a redesignation to "COMMERCIAL AND APARTMENTS-HERITAGE CONSERVATION DISTRICT".
3. The proposal cannot be supported for the following reasons:-
  - i) it conflicts the with the intent of the Official Plan, in that the proposed specialty commercial uses would not serve the daily needs of the surrounding residents;
  - ii) it conflicts with the intent of the approved Durand Neighbourhood Plan which designates the property "LOW DENSITY APARTMENTS"; and,
  - iii) it conflicts with the intent of the "MacNab Charles Heritage District Plan" which permits commercial uses only within existing heritage buildings to facilitate their maintenance and preservation.
4. For the information of the Committee, during the processing and review of City Initiative 91-B (i.e. Zoning for MacNab Charles Heritage Conservation District), it was noted that the applicant, owners of 111 Charles Street, also owned vacant lands, known as 113 Charles Street, located immediately to the south of the building at No. 111 Charles. The applicant was a member of the District Plan Subcommittee. Subsequent to the adoption of the Plan by Council, the applicant realized that the proposed commercial uses were to apply to the existing buildings only. Accordingly, the applicant then requested that the commercial uses also be permitted on the vacant land which they owned.

Given that the intent of the "commercial conversion" was to facilitate the maintenance and preservation of the original single-family historic homes, the applicants request was not supported.

However, the owner was advised that should he wish to pursue this matter, he could submit a zoning application for development of the vacant parcel detailing the placement of a building, the incorporation of the District design guidelines, and the compatibility of a proposed commercial use. In this regard, the application would be reviewed on its own merits.

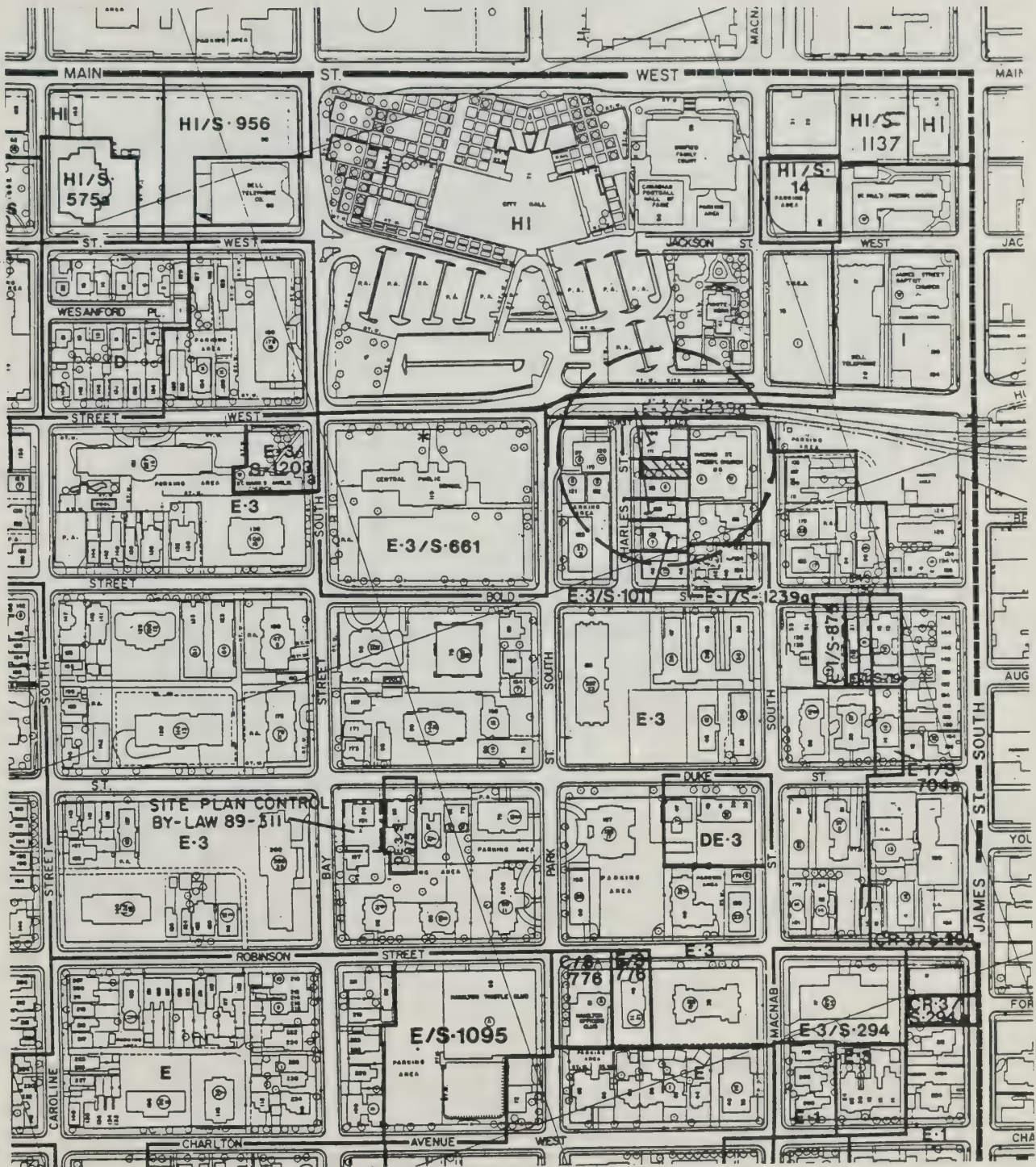
**CONCLUSION:**

On the basis of the foregoing, the proposal cannot be supported.

JL/dkp

B:\ZA9210D





### Legend



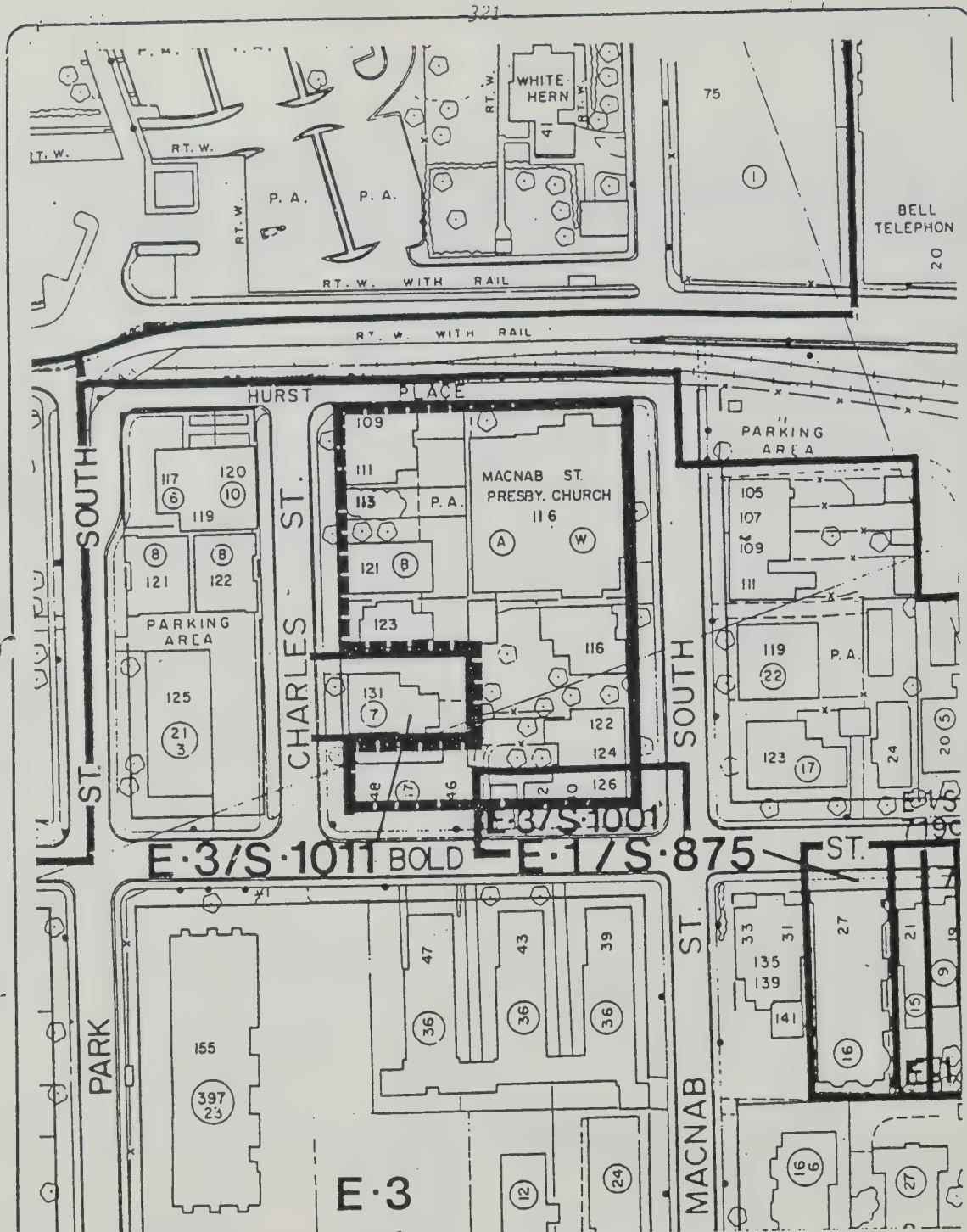
Site of the Application



ZA-92-10

APPENDIX A





NOTE: All dimensions are in metres

This is Schedule "A" to By-Law No. 90-144  
 Passed the 8th day of May, 1990.

*[Signature]*  
 Clerk

*[Signature]*  
 Mayor

City of Hamilton

### Schedule A

Map Forming Part of  
 By-Law No. 90-144  
 to Amend By-Law No. 6593

Regional Municipality of Hamilton-Wentworth  
 Planning and Development Department

#### Legend



Lands Subject to By-Law No. 90-144

North 	Scale NOT TO SCALE	Reference File No.
	Date May, 1990	Drawn By AJL

CITY OF HAMILTON  
- RECOMMENDATION -

8.

**DATE:** September 30, 1992  
ZA-92-16  
Lakely Neighbourhood

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

**SUBJECT:**

Request for a further modification in Zoning - Lands located at 350 Centennial Parkway North.

**RECOMMENDATIONS:**

1. That approval be given to Official Plan Amendment No. to delete the lands from Special Policy Area 48 and to establish a new Special Policy Area to limit the types of Commercial uses, and that the City Solicitor be directed to prepare a By-law of adoption for submission to the Regional Municipality of Hamilton-Wentworth.
2. That approval be given to Zoning Application 92-16, Landawn Shopping Centres (National) Limited, owner, requesting a further modification in zoning to the "HH" (Restricted Community Shopping and Commercial) District modified, to permit the construction of a one storey, commercial retail complex, for the lands located at 350 Centennial Parkway North, as shown on the attached map marked as APPENDIX "A", on the following basis:
  - i) That By-law No. 90-29 be repealed in its entirety;
  - ii) That the subject lands be rezoned from "KK" (Restricted Heavy Industrial) District to "HH" (Restricted Community Shopping and Commercial) District;
  - iii) That the "HH" (Restricted Community Shopping and Commercial) District regulations, as contained in Section 14A of Zoning By-law No. 6593, as amended by By-law No. 90-29, applicable to the subject lands, be further modified to include the following variances as special requirements:
    - a) That notwithstanding Section 14A(1), only the following commercial uses shall be permitted:

- 1) Gas Bar;
  - 2) Building Supply Store (Lumber Yard);
  - 3) Restaurant;
  - 4) Bank;
  - 5) Lawn and Garden Centre;
  - 6) Retail Store;
  - 7) Wholesale Establishment;
  - 8) Shoe Repair Shop;
  - 9) Barbershop, hairdressing establishment or beauty parlour; and,
  - 10) Signs in accordance with the "HH" District provisions.
- b) That notwithstanding Section 14A, outside storage used in conjunction with a permitted use shall be permitted subject to the following:
1. A visual barrier not less than 1.5 m and not more than 2.0 m in height shall be provided and maintained along the westerly boundary and 20 m along the southerly boundary contiguous to the westerly boundary.
  2. The total area of the outside storage shall not exceed 15% of the total lot area.
- c) A maximum gross floor area of 12,077 m<sup>2</sup> (130,000 S.F.) shall be permitted;
- d) That a minimum 3.0 m wide landscape strip shall be provided and maintained along the lot line adjoining Centennial Parkway, except for any area used for access driveway(s).
- e) That notwithstanding Section 14A(3)(b) a sideyard having a width of at least 30.0 m shall be provided and maintained along the northerly lot line;
- f) That a chain-link fence not less than 1.8 m in height shall be provided and maintained along the northerly property line.
- iv) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S- , and that the subject lands on Zoning District Map E-113 be notated S- ;
- v) That the City Solicitor be directed to prepare a By-law to amend Zoning By-law No. 6593 and Zoning District Map E-113 for presentation to City Council;
- vi) That the proposed change in zoning will be in conformity with the Official Plan for the Hamilton Planning Area upon the approval of Official Plan Amendment No. by the Regional Municipality of Hamilton-Wentworth.



### EXPLANATORY NOTE:

The purpose of the by-law is to repeal By-law No. 90-29 and to provide for a change in zoning from "KK" (Restricted Heavy Industrial) District to "HH" (Restricted Community Shopping and Commercial) District modified, for the property located at 350 Centennial Parkway North, as shown on the attached map.

The effect of the By-law is to permit the construction of a one storey, commercial retail complex containing one or more of the following commercial uses:

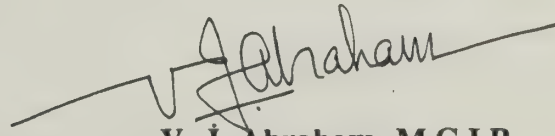
- 1) Gas Bar;
- 2) Building Supply Store (Lumber Yard);
- 3) Restaurant;
- 4) Bank;
- 5) Lawn and Garden Centre;
- 6) Retail Store;
- 7) Wholesale Establishment;
- 8) Shoe Repair Shop;
- 9) Barbershop, hairdressing establishment or beauty parlour; and,
- 10) Signs in accordance with the "HH" District provisions.

In addition , the By-law provides for the following variances as special requirements:

- a maximum gross floor area of 12,077 m<sup>2</sup> (130,000 S.F.) shall be permitted;
- to provide and maintain a minimum 3.0 m wide landscape strip along the lot line adjoining Centennial Parkway, except for any area used for an access driveway;
- to provide and maintain a chain-link fence not less than 1.8 m in height along the northerly lot line adjacent to the Canadian National Railway Line;
- to permit an outside storage area in conjunction with a permitted use, provided the total outside storage shall not exceed 15% of the total lot area;
- to require a visual barrier not less than 1.5 m and not more than 2.0 m in height to be provided and maintained along the westerly boundary and 20 m of the southerly boundary of the storage area; and,
- to require a minimum 30.0 m building setback along the northerly property line.



**J. D. Thoms, M.C.I.P.**  
**Commissioner**  
**Planning and Development Department**



**V. J. Abraham, M.C.I.P.**  
**Director of Local Planning**

## **FINANCIAL IMPLICATIONS:**

N/A

## **BACKGROUND:**

- **Proposal**

The applicant is seeking a modification to the previously established zoning, "HH" (Restricted Community Shopping and Commercial) District modified, to permit the construction of a one storey commercial retail complex with a maximum allowable gross floor area 12,077 m<sup>2</sup> (130,000 S.F.). Anticipated uses include wholesale retail stores, toy store, manufacturers outlet store, office products store, etc. In addition, the applicant is proposing to delete a hotel, offices, bowling alley, cinema, and billiard hall from the list of uses presently permitted on the subject lands.

- **Zoning Application 89-38**

Zoning Application 89-38, for a change in zoning from "KK" (Restricted Heavy Industrial) District to "HH" (Restricted Community Shopping and Commercial) District modified, to permit the construction of a "home improvement shopping centre" with various outlets catering to home renovation, design, etc., was approved by City Council at its meeting of January 30, 1992.

- **By-law No. 90-29**

By-law No. 90-29, with respect to the above-mentioned zoning application, came into effect on March 15, 1990.

- **Site Plan Control Application 90-94**

A development application was submitted for a one (1) storey home improvement shopping centre and a three-storey office building having a gross floor area of 18,507 m<sup>2</sup> (199,214 S.F.) on the subject lands. This application was never finalized as the ownership of the lands changed.

## **APPLICANT:**

Landawn Shopping Centres (National) Limited, owner.

## **LOT SIZE AND AREA:**

- 228.6 m (750 ft.) of lot frontage on Centennial Parkway North;
- 172. 69 m (556.56 ft.) of lot depth; and,
- 4.13 ha (10.2 ac.) of lot area.

## LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands</u>	vacant	"HH" (Restricted Community Shopping and Commercial) District, modified
<u>Surrounding Lands</u>		
to the north	CNR tracks, heavy industrial operation; and an office building	"KK" (Restricted Heavy Industrial) District
to the south	car dealership	"JJ" (Restricted Light and Limited Heavy Industrial) District
to the east	industrial	"KK" (Restricted Heavy Industrial) District
to the west	storage	"KK" (Restricted Heavy Industrial) District

## OFFICIAL PLAN:

The subject lands are designated "COMMERCIAL" on Schedule "A" - Land Use Concept of the Official Plan. The following policies apply:

- "A.2.2.1      The primary uses permitted in the areas exceeding .4 hectare designated on Schedule "A" as COMMERCIAL will be for Commerce. In this regard, Commerce is defined as establishments involved in the buying and selling of goods and services; business offices; and hotels, convention and entertainment facilities. In addition to the primary permitted uses, the following may be permitted within COMMERCIAL areas provided that they have been designated in the Neighbourhood Plan:
- A.2.2.6      The SHOPPING CENTRES category applies to groups of Commercial establishments planned and developed as a unit, and having no less than 1,400 square metres of gross floor area.
- A.2.2.8      Council recognizes SHOPPING CENTRES as an appropriate form of commercial development necessary to the economic health of the City and the Region. In this regard, Council will utilize the Following classifications of SHOPPING CENTRES, where applicable, in the preparation of Neighbour Plans:
- iv)      A Neighbourhood SHOPPING CENTRE will have a gross floor area of 2,000 square metres to a maximum of 14,000 square metres.



- A.2.2.11 Adjunct to such an analysis and prior to any consideration for approval, Council will be satisfied that the proponent has demonstrated that:
- i) Traffic volumes and movements can be safely handled by the existing or proposed Circulation and Movement System as set out in Subsection B.3;
  - ii) Adequate provision can be made to accommodate access by public transit, in keeping with the provisions of Subsection B.3.2, Public Transit;
  - iii) Existing or proposed utilities are adequate to serve the development; and,
  - iv) Any deficiencies in the above can be adequately resolved by the proponent.
- A.2.2.35 The size of advertising, identification or other promotional signs and devices will be regulated by appropriate by-laws in order to avoid conflicts with effective traffic control and the general amenity of the area.
- A.2.2.36 In addition to the provisions of Subsection B.3.3 of this Plan, adequate parking and loading space will be required in clearly defined areas for all development and redevelopment within the COMMERCIAL designation and will include adequate space for owners, employees, customers and delivery vehicles. Council will require that, in all normal circumstances, a high standard of parking and loading facilities will be maintained in accordance with current practices."

The subject lands are also situated in Special Policy Area No. 48; the following policy applies:

- "A.2.9.3.43 Notwithstanding the permitted uses set out in Subsection A.2.2 - Commercial Uses, for those lands shown on Schedule "B" as SPECIAL POLICY AREA 48, and located south of the C.N.R. Railway and east of Centennial Parkway North, only limited commercial uses will be permitted, such as, home improvement centre uses, billiard hall, bowling alley, offices, cinema, restaurants and hotel, as provided for by the implementing Zoning By-law amendment."

The applicant has requested the following commercial uses be permitted in addition to the permitted uses outlined in Policy A.2.9.43: wholesale retail store, toy store, manufacturer's outlet store, wholesale, office products store, retail stores and free standing restaurants with drive thru facility. Further, the applicant wishes to eliminate the following permitted uses, as per Special Policy Area 48: hotel, bowling alley and cinema.

An amendment to Special Policy Area 48 would be required to incorporate the additional uses the applicant has requested.

#### **NEIGHBOURHOOD PLAN:**

There is no approved plan for the Lakely Neighbourhood.

### GATEWAY EAST STUDY:

The proposed Gateway East Study designates the lands for "Business Park/Commercial" to encourage recreation/entertainment/accommodation uses. The study concluded that the proposed uses were not envisaged for the area. However, the proposed development of the site may attract the recreation/entertainment type uses for other sites in the surrounding area. On this basis, the proposal can be supported.

### RESULTS OF CIRCULARIZATION:

- The following Department and agencies have no comments or objections:

- Economic Development Department;
- Ministry of Transportation;
- Union Gas; and,
- Hamilton Region Conservation Authority.

- The Hamilton-Wentworth Engineering Department has advised that:

"There are public watermains and separate storm and sanitary sewers available to service these lands.

The designated road allowance width of Centennial Parkway is 36.58m (120 feet). However, specific road allowance widenings have been identified for the future widening of Centennial Parkway at the C.N.R. Subway to provide for a seven lane cross section, boulevard utilities, sidewalks, lowering of the roadway and side slopes adjacent to the roadway. Policy 3.1.1.6V of the City of Hamilton's Official Plan provides for these additional road widening where site sloping, retaining walls, etc., cannot be contained within the designated right of way. We therefore, recommend that as a condition of development approval, that a strip of land on Centennial Parkway, being 9.0 m in width at the north side tapering down to 3.048m on the south side, as shown on the attached, be dedicated to the City of Hamilton for road widening purposes.

All setbacks must be taken from the widened limits of Centennial Parkway. In the absence of any details shown, we advise that any works which may occur within the Centennial Parkway road allowance, as widened, must conform to the City of Hamilton Streets By-Law.

Comments from the City of Hamilton Traffic Department with respect to access and traffic generation should be considered. We advise, at this time, that there will be roadway improvements required at the intersection of Arrowsmith and Centennial Parkway which will be a condition of site plan/access approval. With respect to the preliminary site plan submitted, the access to this site must align directly across the road from Arrowsmith Road.

There is a one foot reserve adjacent to Cascade Street and this one foot reserve must be lifted and any outstanding servicing costs be paid to the City/Region at this time. More detailed comments on access grade, location, landscaping will be submitted at such time



as detailed plans are submitted for our review and approval. It appears that there will be a conflict with utilities on the east side of Centennial Parkway and the applicant/owner is responsible for any costs for utility relocation, etc.

It is imperative that the applicant/owner contact the Road Authority with respect to any requirements they may have on setbacks, noise attenuation, ground vibration, etc.

- The Building Department has reviewed the application and has forwarded the following comments:

- "1. Retail or wholesale type stores are considered commercial uses.
2. By-law 90-29 does not permit a freestanding Restaurant with a drive-thru facility.
3. This development is subject to the parking and loading requirements of Section 18A of By-law 6593.
4. The plan submitted is not detailed to determine compliance."

- The Traffic Department has reviewed the application and has forwarded the following comments (see APPENDIX "B").

- The C.N. Railway has advised that:

"The proposed development, being adjacent to our Grimsby Subdivision, a Principal Main Line, would be expected to comply with our noise, vibration and safety standards. We request that the following comments be included in the Zoning By-law Amendment:

1. A minimum 30m building setback in conjunction with a 2.5 m high safety berm is required.
2. The required 2.5m high safety berm shall be above grade having side slopes not steeper than 2.5 to 1, adjoining and parallel to the railway right-of-way with returns at the ends. In the absence of a safety berm, we require a building setback of 120 m.
3. The Applicant/Owner must install and maintain at its own expense, a chain link fence of minimum 1.83 m height along the mutual property line.
4. Any proposed alterations to the existing drainage pattern affecting Railway property must receive prior concurrence from the Railway and be substantiated by a drainage report to the satisfaction of the Railway.
5. Surface run-off from the site onto Railway property must be contained to pre-development levels under Regional or 100 year Storm conditions, whichever is most severe.



Should Council decide to approve the Amendment without incorporating the above requirements, we have no alternative but to request that this Amendment be referred to the Ontario Municipal Board pursuant to the provisions of the Planning Act, 1983, S.O. 1983, c.1."

- The Ministry of the Environment has advised that:

"I am writing further to your letter upon the captioned zoning proposal, dated April 30, 1992, accompanied by a copy of the application.

We understand from the information provided that the subject lands consist of some 10.2 acres, and are zoned "HH-Restricted Community Shopping and Commercial District" with the intent of allowing a "commercial retail complex". The intent of the application is to add certain retail and wholesale uses and a restaurant to the uses permitted, and to add a gross floor area cap of 130,000 square feet for retail stores. Further, the zoning modification sought would eliminate a hotel, bowling alley and cinema as uses permitted.

The surrounding area is characterized by industrial, commercial and transportation land uses which we consider to be compatible with the commercial uses proposed.

Management of storm water run-off upon the site is of interest to the Ministry of the Environment. In this regard, a storm water management system meets the definition of a "sewage works" under the Ontario Water Resources Act; therefore, approval of the Director must be obtained under Section 53 of the Ontario Water Resources Act, R.S.O. 1990, prior to construction of the project. The proponent must ensure that an application for Approval of Sewage Works together with a detailed professional storm water management plan illustrating the means of collection, transmission treatment and disposal of storm water in accordance with the Ministry of the Environment/Ministry of Natural Resources Interim Storm Water Quality Guidelines for New Development are submitted to this Ministry. This submission should be made to our District Officer, Mr. John Vogt, at this address. By copy of this letter we are alerting Landawn to our requirements.

In conclusion, I may advise you that the Ministry of the Environment has no objection to approval of the captioned zoning by-law modification.

#### COMMENTS:

- 1) The proposal does not comply with the intent of the Official Plan. Approval of the application would require an amendment to delete "Special Policy Area 48" and establish a new "Special Policy Area" to permit the commercial uses the applicant has requested.
- 2) The proposal complies with the intent of the proposed Gateway East Study.
- 3) The proposal has merit and warrants consideration for the following reasons:
  - a) it is located on a major arterial road (Centennial Parkway North);

- b) it is consistent with the existing land use in the surrounding area, including warehousing to the west, and commercial to the south;
  - c) it will improve the area's overall image and may encourage the redevelopment of adjacent properties; and,
  - d) the additional commercial uses are no less feasible than the uses already permitted under the existing zoning (i.e., Home Design Centre) and the uses formerly permitted under the "KK" District Zoning.
4. With respect to the Traffic Department's concerns (see APPENDIX "B"), it should be noted that the proposed development would have a maximum gross floor area of 12,077 m<sup>2</sup> (130,000 sq. ft.), whereas the current zoning on the subject lands does not place a cap on the maximum gross floor area permitted.

Under the previous Site Plan Application on these lands (DA-90-94) a gross floor area of 18,507 m<sup>2</sup> (199,214 sq. ft.) was proposed. This development was to be comprised of a three (3) storey office/retail building (8,806 m<sup>2</sup>) and a one(1) storey retail complex (9,701 m<sup>2</sup>).

Notwithstanding that some of the proposed uses for this application could be considered as high traffic generators (e.g. restaurant), from a planning perspective the proposed development with a limited gross floor area and the deletion of certain uses from the present site specific zoning by-law (e.g. offices, hotel, billiard hall, bowling alley, and cinema), as proposed by the applicant, should ameliorate traffic concerns. In addition, it should be noted that the proposed development has the potential for a signalized access, when warranted.

It also seems reasonable to assume, that the potential traffic generated by the proposed commercial retail complex would not be significantly greater than that for a successful "Home Design Centre" and office/retail complex.

- 5) The proposed Gateway East Study highlights several urban design features which should be considered in the redevelopment of the area:

- Landscaping

To complement the parkland character of Confederation Park, the study proposes to require extensive landscape treatment along Centennial Parkway. Accordingly, it is appropriate to include in the amending by-law a minimum 3.0 m wide landscaped strip along the Centennial Parkway frontage, as proposed.

- Signage

To enhance the urban quality of Centennial Parkway, it would be desirable to have a sign which serves a dual purpose, both as an attractive and a decorative landmark, as well as for identification. The applicant is willing to consider such a design feature.

- Sidewalks

The study proposes sidewalks for all portions of Centennial Parkway. It would improve the aesthetics of the area as well as improving safety for pedestrians.

Details of these features will be addressed during the site plan stage and any costs associated thereto.

5. Comments from CN Rail indicate that they have no objection to the proposal, but identify a number of conditions which the applicant must satisfy if the application is approved (see Results of Circularization). Specifically they have requested a 30.0 m building setback in conjunction with a 2.5 m high safety berm from their lands. The applicant has agreed to provide the setback. With respect to the requirement for a safety berm, both parties have agreed to review this requirement at the Site Plan Approval stage.
- 6) Under the "HH" (Restricted Community Shopping and Commercial) District, the lands are subject to Site Plan Control By-law 87-279, as amended by By-law 89-223. Matters such as signage, parking, landscaping, screening, access, road widening etc., and concerns of the Traffic Department and CN Rail can be dealt with during the site plan approval process.

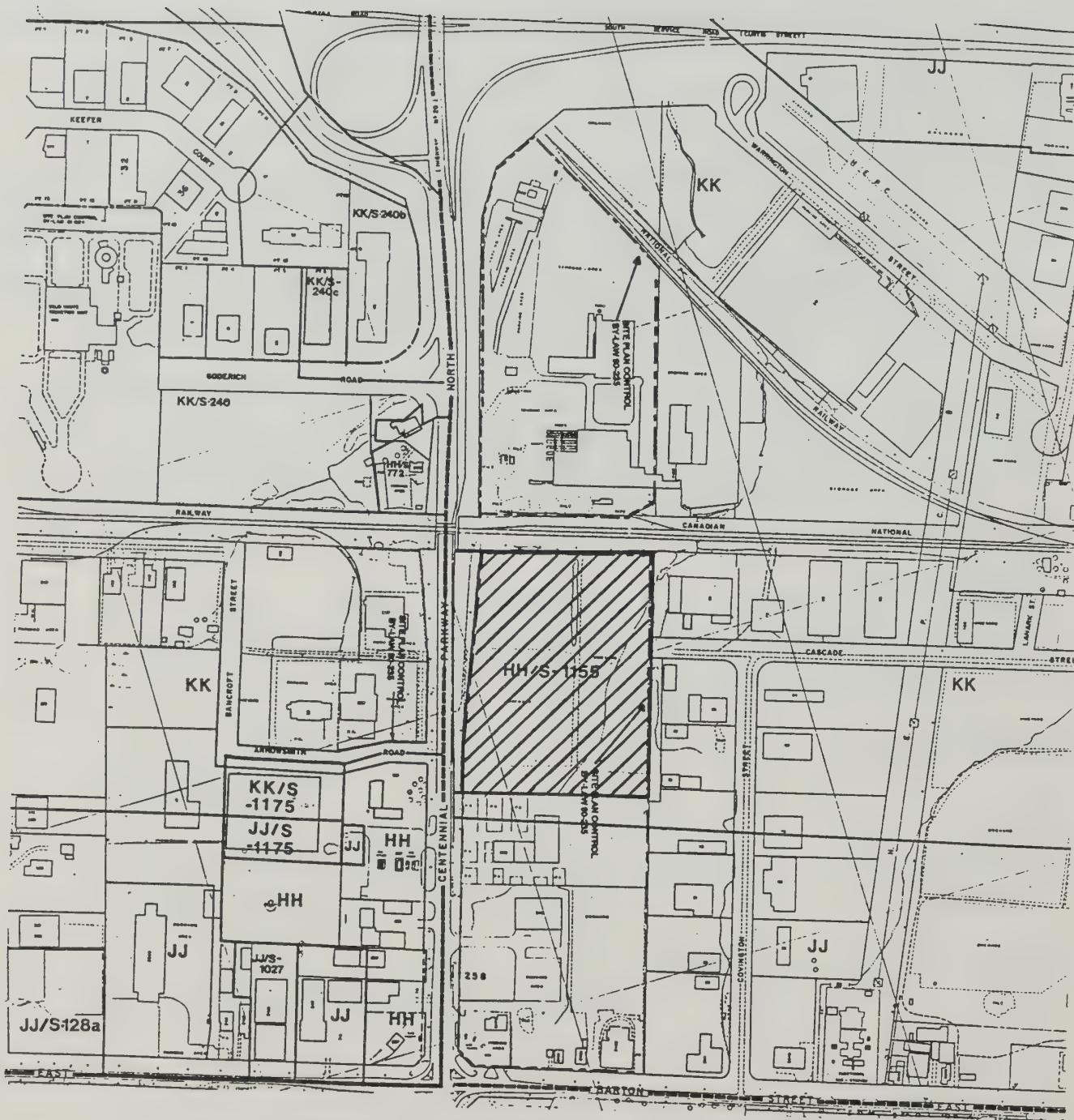
**CONCLUSION:**

Based on the foregoing, the amended proposal can be supported.

JL/dkp

B:\ZA9216





Legend



Site of the Application



ZA-92-16

APPENDIX A



# THE CORPORATION OF THE CITY OF HAMILTON

City Hall, 71 Main Street West, Hamilton, Ontario L8N 3T4

SEP 24 1992

1992 September 24

Mr. V. J. Abraham, M.C.I.P.  
Director of Local Planning  
Planning and Development Department

Attention: Mr. Paul Mallard

Dear Sir:

Re: ZA-92-16

Lands south of the CN Railway and east of Centennial Parkway North

In response to your letter of 1992 April 30, please be advised that we have reviewed the above application and provide the following comments.

This property was previously reviewed under ZA-89-38. At that time, the Traffic Department stated that our preferred scenario would be that the proposal be denied and that the properties be developed under the existing industrial zoning with no direct access to Centennial Parkway. This section of Centennial Parkway is one of the most congested roadways in the City, servicing approximately 36,000 vehicles a day.

These concerns were discussed with agents from Landawn Shopping Centres Limited prior to the 1989 rezoning application. The applicant even acknowledged that he is aware of the traffic congestion problem on Centennial Parkway in a letter dated 1989 December 12, to your Department. As a result of these concerns, the applicant modified his initial application and proposed the construction of a one-storey, 9,950m<sup>2</sup> shopping centre including only those uses which would either produce relatively low traffic volumes or would have trip production characteristics which would not significantly add to the existing peak hour traffic situation on Centennial Parkway (ie. Home Design Centre). Based on this specific proposal, its specific use restrictions and the anticipated completion of the north-south portion of the Red Hill Creek Expressway in 1996, the Traffic Department supported ZA-89-38. This zoning application was approved under By-law No. 90-29. Unfortunately, the implementing by-law did not include a maximum gross floor area restriction.

The property was then sold to a third party and a development application (DA-90-94) submitted with a gross floor area of 18,672m<sup>2</sup> (8,722m<sup>2</sup> more than that agreed to during the zoning processes) which included a three-storey, 6,330m<sup>2</sup> office building. This application was near completion when it was withdrawn. The land has now reverted back to the original owner/applicant, Landawn Shopping Centres Limited.

APPENDIX B



During the processing of DA-90-94 the Province cancelled the funding for the construction of the north-south portion of the Red Hill Creek Expressway. If this cancellation had occurred during the re-zoning of this property from industrial land to restricted community shopping, the Traffic Department would have vigorously pursued the denial of this application. As previously stated, Centennial Parkway is already at capacity in the P.M. peak hour and cannot accommodate any major increases in traffic. The cancellation/delay of this freeway linkage, at this location, represents a major change for development potential in this area.

The applicant has now requested that additional uses such as wholesale retail, toy stores, manufacturer's outlet stores, retail stores and freestanding restaurants with drive-thru facilities be permitted to a maximum gross floor area of 12,077m<sup>2</sup> (130,000ft<sup>2</sup>). The applicant has stated that he would eliminate hotel, bowling alley and cinema uses. The uses proposed for elimination are the uses which generate low traffic volumes during the street peak hours and are the type of uses we prefer for this development. The types of uses being requested are high traffic generators and would generate approximately 1,000 vehicle trips to/from this development in the P.M. peak hour. Centennial Parkway is already at capacity and is incapable of handling this increase in traffic. The result of this additional traffic loading will be longer peak periods, additional congestion, traffic delays and collisions as more users attempt to use the available roadway capacity. Existing customers for established businesses will be forced onto alternative routes and to alternative commercial venues.

There are two potential improvements which could aid in addressing the problems associated with this proposal and with any other future intensification proposals in this area. The first is the construction of the north-south portion of the Red Hill Creek Expressway. This would eliminate much of the through traffic on Centennial Parkway and would provide the additional spare capacity to reasonably accommodate additional growth in the immediate area. It should be noted that this beneficial effect decreases as the distance between Centennial Parkway and any future freeway link increases. Therefore, should the Province suggest an alternative route for a freeway link, the benefits with respect to Centennial Parkway operations will not be equal.

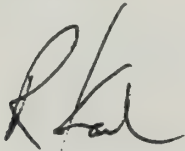
The second potential improvement would be to reconstruct Centennial Parkway to a seven lane section from the Q.E.W. Highway to a point south of Queenston Road. This improvement would provide sufficient additional capacity to accommodate the introduction of new commercial activities on this roadway.

The Traffic Department recommends that if the Planning and Development Committee decides that it is in the corporate interest to approve this application, that the City continues to vigorously pursue the funding for the north-south portion of the Red Hill Creek Expressway. If funding is unavailable for this project, the City should pursue the widening of Centennial Parkway to a seven lane section to increase the capacity of the roadway.



In regards to the preliminary site plan submitted with this zoning application, we offer the following additional comments. The plan indicates a skewed access to Centennial Parkway, near Arrowsmith Road. We recommend that this access be aligned directly across from the existing Arrowsmith Road to minimize development costs, improve the intersection design and allow for possible signalization of this intersection. This access must be controlled on both sides for a minimum of 25 metres. The applicant should be advised that we would not support any additional accesses to Centennial Parkway to facilitate a drive-thru restaurant. In addition, access to Cascade Avenue should be provided. This will facilitate delivery vehicles and provide an alternative access to this site.

Yours truly,

A handwritten signature in dark ink, appearing to be 'M. Main', written in a cursive style.

*for* Murray F. Main, P. Eng.  
Director of Traffic Services

RK/ES/ks

c.c. Mr. Geoff Aston, Director of Programming and Development



"Copy sent to V. Abraham, Director of Local Planning, Planning Department, P. Noe Johnson, City Solicitor, Law Department, M. Main, Director of Traffic Services, Traffic Department and Alderman D. Drury, Chairperson, Planning and Development Committee - 1992 September 28"

CN

RECEIVED

SEP 28 1992

CITY CLERKS

Engineering Services  
Southern Ontario District  
Suite 401  
277 Front St. W.  
Toronto, Ontario  
M5V 2X7

22 September 1992

Your File: ZA-92-16  
Our File: TZ-4500-H-08

8a)

Secretary  
Planning and Development Committee  
City of Hamilton  
City Hall  
71 Main Street West  
Hamilton, Ontario  
L8N 3T4

Dear Sir/Madam:

**Re: Proposed Zoning By-law Amendment  
350 Centennial Parkway North**

---

We have reviewed your letter dated 11 September 1992, regarding the above noted proposal. The proposed development, being adjacent to our Grimsby Subdivision, a Principal Main Line, would be expected to comply with our noise, vibration and safety standards. We request that the following comments be included in the Zoning By-law Amendment:

1. A minimum 30m building setback in conjunction with a 2.5m high safety berm is required.
2. The required 2.5m high safety berm shall be above grade having side slopes not steeper than 2.5 to 1, adjoining and parallel to the railway right-of-way with returns at the ends. In the absence of a safety berm, we require a building setback of 120 m.
3. The Applicant/Owner must install and maintain at his own expense, a chain link fence of minimum 1.83 m height along the mutual property line.
4. Any proposed alterations to the existing drainage pattern affecting Railway property must receive prior concurrence from the Railway and be substantiated by a drainage report to the satisfaction of the Railway.
5. Surface runoff from the site onto Railway property must be constrained to pre-development levels under Regional or 100 year Storm conditions, which ever is most severe.


We recommend that the Applicant/Owner engage a consultant to undertake an analysis of noise and/or vibration and to recommend abatement measures necessary to achieve the maximum noise level limits set by the Ministry of Environment to the satisfaction of the City and in consultation with the Ministry of Environment.



Should Council decide to approve the Amendment without incorporating the above requirements, we have no alternative but to request that this Amendment be referred to the Ontario Municipal Board pursuant to the provisions of the Planning Act, 1983, S.O. 1983, c.1.

Should you have any further questions, please do not hesitate to contact Karen Fraser at (416)860-2466.

Yours truly,

A handwritten signature in cursive script that reads "Karen Fraser".

Karen Fraser

For: M.P. Murphy  
Manager Engineering Services

9.

**CITY OF HAMILTON**  
**- RECOMMENDATION -**

RECEIVED

OCT 01 1992

CITY CLERKS

**DATE:** 1992 October 1  
(CD-92-001)

**REPORT TO:** Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. J. D. Thoms  
Commissioner of Planning and Development

***SUBJECT:***

Rental Housing Protection Act Application CD-92-001, to convert 21 rental residential apartments to residential condominiums - 515 Main Street East, Hamilton, Gibson Neighbourhood.

***RECOMMENDATION:***

A. That approval be given to Rental Housing Protection Act Application CD-92-001, Oswald Delkus, principal of registered owner, 542052 Ontario Limited, for conversion of 21 rental residential units to 21 residential condominium units at 515 Main Street East, Hamilton, as the proposed development will not adversely affect the supply of affordable rental housing in Hamilton, provided the owner fulfills the following conditions:

- 1) That the applicant offer to the remaining tenants in the three bedroom unit known as Apartment No. 3, namely Mr. Robert Balansche and Mrs. Ruth Balansche, the opportunity to continue renting their unit for as long as they wish, at the rent rate now paid, namely \$357.00 per month, provided that such rent shall not be increased by reason of the alterations to convert the building to a condominium, but that the rent may be increased as otherwise permitted at law;
- 2) That the applicant also offer the present tenants, namely Mr. and Mrs. Balansche, the option to purchase their unit, Apartment No. 3, within three years of registration of the new condominium, at a price to be negotiated not in excess of \$55,000.00 (fifty-five thousand dollars);
- 3) That the owner agree to cause the new condominium corporation to enter into an agreement with the City to assume these obligations; and,
- 4) That the applicant be requested to prepare an Approval Agreement incorporating the conditions of approval, in a form satisfactory to the Director of Local Planning and the City Solicitor. This Agreement is to be executed by the Mayor and City Clerk.

- B. That the City Clerk execute the Certificate of Approval in a form satisfactory to the City Solicitor, pursuant to Section 13(8) of the Rental Housing Protection Act, 1989 after the owner's Agreement incorporating the conditions of approval has been registered on title to 515 Main Street East by the owner.

**J. D. Thoms, M.C.I.P.**  
**Commissioner**  
**Planning and Development Department**

  
**V. J. Abraham, M.C.I.P.**  
**Director of Local Planning**

***FINANCIAL/STAFFING/LEGAL IMPLICATIONS:***

N/A

***BACKGROUND:***

An application under the Ontario Rental Housing Protection Act for the building at 515 Main Street East in Hamilton was submitted to the City in July, 1992. The proposal is to convert 21 rental residential units to residential condominiums. The subject property is shown on the attached key map.

The existing use on the site is a three storey apartment building, with a total of 21 apartment units, including the following units and their related rents, as of 1990;

- 2 bachelor apartment units, with rents of \$264 to \$280 per month;
- 4 one bedroom apartment units, with rents of \$293 to \$373 per month;
- 10 two bedroom apartment units, with rents of \$347 to \$407 per month; and,
- 5 three bedroom apartment units, with rents of \$437 to \$478 per month.

Most of the units, except for three, were vacant when the application was submitted in July, 1992, and had been vacant for over two years. However, the Rental Housing Protection Act still applies to vacant rental units, regardless of how long they have been vacant. Notification of two additional vacancies was given after the application was submitted:

- The occupant of Apartment No. 14 submitted an agreement to terminate tenancy on August 25, 1992, effective September 27, 1992; and,
- The occupant of Apartment No. 5 on September 23, 1992 submitted an agreement to terminate tenancy, effective November 1, 1992.

There is presently one occupied three bedroom unit, namely Apartment No. 3.

The owner is proposing to convert all 21 apartment units to condominiums, to be sold at prices ranging from \$30,000 to \$55,000. He has also indicated that he would be willing to allow the



remaining tenants in the one occupied unit to:

- continue renting their unit for as long as they desire, at the rent set by Rent Review; or,
- purchase their three bedroom unit, at a price of \$55,000.00.

Minor renovations are also proposed to accompany the conversion. The applicant has stated that these renovations involve upgrading, new fixtures, doors and locks; painting, etc.; and repairs to and/or replacement of drywall or plaster. Some of these renovations have been underway for at least a couple of months. In the opinion of the City Building Department, these renovations did not require a Renovation and Repair Application under the Rental Housing Protection Act, since they were considered to be minor in nature.

### ***APPLICABILITY OF THE ONTARIO RENTAL HOUSING PROTECTION ACT***

The purpose of the Act is to protect the supply of rental housing. The Act regulates changes to rental units including renovations, conversions, demolitions and severances. The proposed conversion of rental units to condominiums at 515 Main Street East is subject to the Act, since:

- All conversions to condominium are subject, irrespective of the number of residential units, and whether or not the units are vacant; and,
- The rental units are within the affordable range for the Hamilton area, as defined by the Land Use Planning for Housing Policy Statement (LUPHPS), Information Bulletin 1992, which states that units with rents of \$810 or less per month are affordable for the Hamilton area.

### ***EVALUATION CRITERIA***

In reviewing this proposal, Council must consider the criteria which accompany the Rental Housing Protection Act (Section 7 of Ontario Regulation 586/89). They are as follows:

*"7.-(1) The council of a municipality shall not approve an application under the Act unless the council is satisfied that at least one of the following criteria is met:*

*1. Council finds that;*

- i) a rental property for which an application is made for demolition is structurally unsound, or*
- ii) a rental property for which an application is made for renovation or repair is structurally unsound at the time of the application and will continue to be structurally unsound if the renovation or repair proposed by the applicant is not carried out and, in the case where tenants are in occupation of the unit, that vacant possession is required to effect the renovation or repair.*

2. *The applicant agrees,*

- i) *to provide the same number of new rental units in a similar rental range and in the same area as those for which approval is given, and*
- ii) *to provide rental accommodation in the same area of similar quality and rent, either in the new rental units or in other existing rental property, to any tenant who is required to give up possession of a rental unit as a result of the approval.*

3. *In the opinion of Council, the proposal does not adversely affect the supply of affordable rental housing in the municipality."*

In addition, Council should note that the Region of Hamilton-Wentworth Official Plan contains the following policy respecting condominium conversions:

*"8.14 To consider the conversion of rental housing in projects with six or more units to condominium or equity co-operative tenure as premature and not in the public interest unless the rental vacancy rate in the Area Municipality in which the conversion is proposed exceeds 2%. Further, no conversion will be allowed which will lower the vacancy rate below 2%."*

Criteria 1 of the Rental Housing Regulations is not applicable. This application will be therefore be evaluated against criteria #2 (i and ii) and criteria #3 of the Rental Housing Regulations. Policy 8.14 of the Regional Official Plan will also be considered.

## **ANALYSIS**

### Provision of Alternative and Replacement Units

Concerning the second criteria of the Regulations, the applicant has not indicated that he is prepared to rehouse existing tenants and build new rental units to replace the converted units. Therefore, according to comments received from the Provincial office of the Rental Housing Protection Program, Clause 7(1)(2) of the Regulation would not appear to apply, and Council should consider this application under Clause 7(1)(3) of the Regulation.

However, the applicant has offered the tenants in the one remaining occupied unit the opportunity to continue renting this unit for as long as they wish. The offer to the tenants, to either continue renting the unit or purchase it, was made in the form of a letter dated September 10, 1992 to Mr. Robert Balansche, a copy of which is attached.

### Impact on the Supply of Affordable Rental Housing

Under the third criteria, City Council may approve a proposal if, in Council's opinion, the



proposal will not adversely affect the supply of affordable rental housing in the City.

The impact of the removal of these units from the supply of rental housing and vacancy rates, in the City and in Central Hamilton, is outlined in Appendix "A". It is noted that the removal of these 21 units from the universe of 33,511 rental units in the City would reduce this supply by 0.06%. The overall vacancy rate for the City would not be changed, and would remain at 2.6%. The loss of these units from the universe of 3,396 rental units in the Central Hamilton zone would reduce this supply by 0.6%. Therefore, it can be argued that the loss of these rental units would not cause a significant adverse impact on the supply of affordable rental housing. The Act states that City Council must be satisfied as to whether or not there is an adverse impact.

### Rental Vacancy Rates

The rental vacancy rate for the City is presently at 2.6%, as of the most recent CMHC vacancy rate data for April, 1992, which is contained in Appendix "B". This rate increased to over 2% for the first time in several years. Prior to this, vacancy rates for the City had been increasing gradually over the last few years. A healthy vacancy rate for a municipality is generally considered to be between 2% and 3%. The vacancy rate for the Central Hamilton zone was at 4.1% in April, 1992, which also represents an increase over previous vacancy rates for this area, and an over supply of vacant units.

The provisions of the Rental Housing Protection Act supersede policies in place on a local level, such as the Hamilton Wentworth Regional Official Plan policy which states that applications for conversion of rental units to condominium will be considered premature, unless the vacancy rate in the Area Municipality exceeds 2%. The Regional Official Plan policies are intended to complement the Act, and this policy in the Official Plan provides a general rule of thumb by which rental vacancy rates can be evaluated. The vacancy rate now has increased to the point at which there is a greater supply of available vacant rental units to meet the needs of tenants. As was noted previously, the loss of these units from the rental supply would not significantly change the vacancy rates.

### Affordability of Proposed Units

The proposed condominium units are to be marketed at prices which would place them well within the affordable range. In the application, estimated selling prices were stated as being \$30,000 for bachelor units; \$35,000 for one bedroom; \$50,000 for two bedroom; and \$55,000 for three bedroom units. Units selling for up to \$149,500 are considered affordable for Hamilton, as defined by the Province's Land Use Planning for Housing Policy Statement, Information Bulletin 1992.

The condominium units would be affordable to households with relatively low incomes. For example, a three bedroom unit selling for the proposed price of \$55,000 would be considered affordable to households with annual incomes in the \$11,500 to \$14,000 range. This is based on prevailing mortgage rates as of the end of September, 1992, and a 25% down payment. Such households would be in the lower percentiles of the housing market, in terms of income.



**CONCLUSION:**

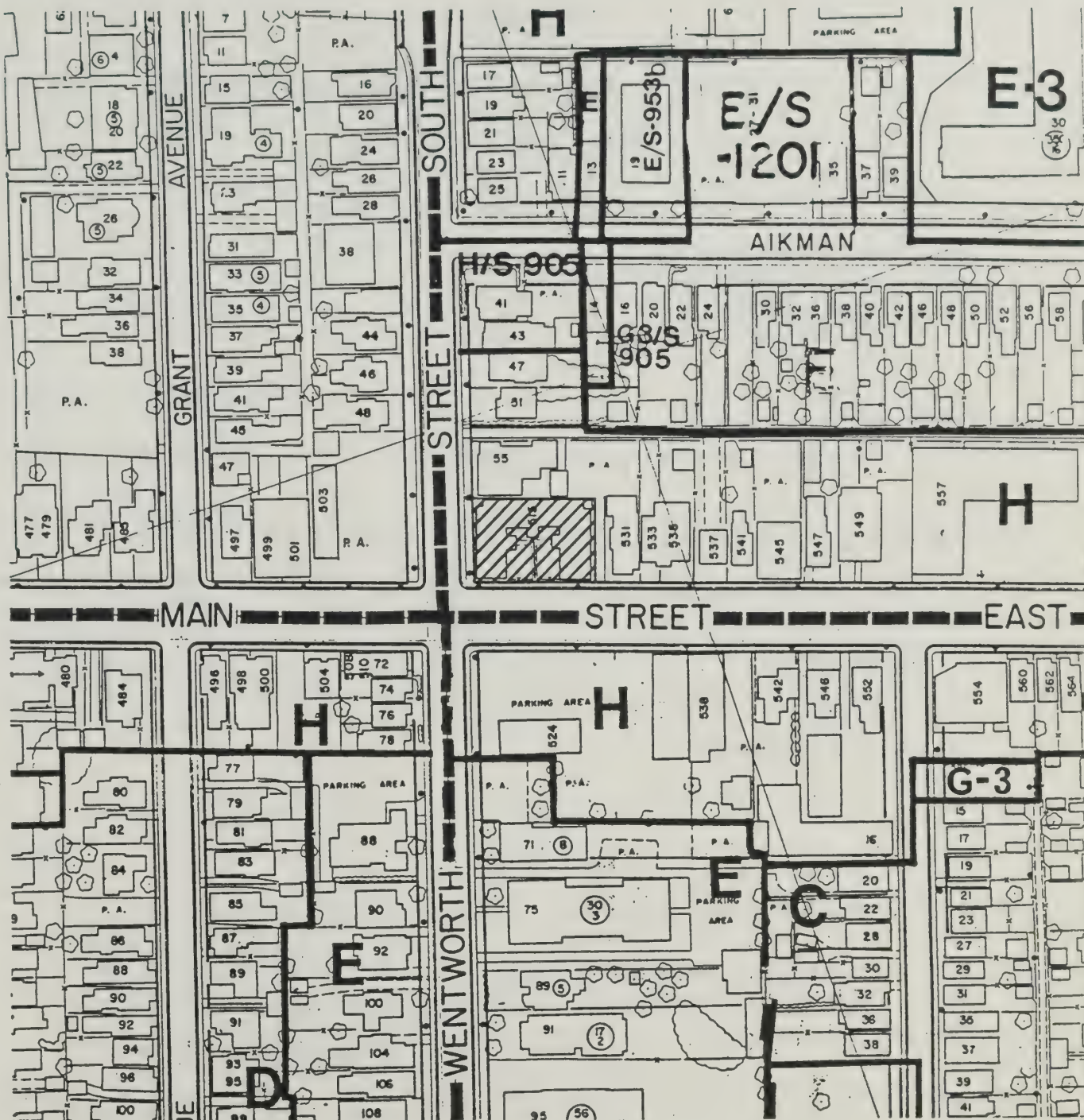
This application, if approved, would result in a loss of 21 rental units from the supply of affordable rental housing in the City. However, taking into account all relevant considerations, it is felt that the application would not have a significant adverse impact on the supply of affordable rental housing in the City. Therefore, approval of the application for conversion to condominium is appropriate, subject to the conditions noted to protect the existing tenants, since:

- The applicant has offered in writing to provide the tenants in the one remaining occupied unit with the opportunity to continue renting this unit for as long as they wish, at the rent set by Rent Review; or the option to purchase the unit, at a cost of \$55,000;
- The supply of rental housing units in the City would only be reduced by 0.06%;
- Rental vacancy rates in the City have recently increased to over 2%, which, although not a fixed ceiling, does indicate that there is a reasonable supply of vacant units. Vacancy rates in this area of the City are about 4%;
- The units in question are to be sold at prices from \$30,000 to \$55,000, which are affordable to households in the lower income ranges, helping to provide affordable ownership housing. This may allow some renters to move into the ownership market;
- Conversion and marketing of the units may serve to increase the overall supply of affordable rental housing which is available, since the units have been vacant for two years or more.

As noted, an agreement should be prepared, incorporating the conditions of approval, satisfactory to the Director of Local Planning and the City Solicitor. The Certificate of Approval should not be issued until the owner's agreement, outlining the conditions of approval, is registered.

VG/dkp

B:\CD92001.REP



Note: Extract from Gibson Neighbourhood Zoning Map  
and adjacent Neighbourhoods.

City of Hamilton

## Key Map

Rental Housing Protection Act

CD-92-001 515 Main Street East

Regional Municipality of Hamilton-Wentworth  
Planning and Development Department

### Legend



Location of Subject Lands

North



Scale  
NOT TO SCALE

Date  
SEPT., 1992

Reference File No.  
CD-92-001

Drawn By  
P.B.

Toronto, September 10th, 1992

Mr. Robert Balansche,  
515 Main Street East, Apt.3,  
Hamilton , Ont.

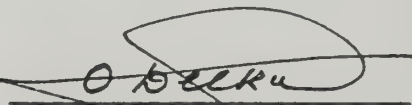
Dear Sir:

Re.: 515 Main Str. East, Apt. No. 3, Hamilton, Ont.

We are offering Apartment No. 3, which is at present time occupied by You, to continue renting to You as long as You desire at the rentprice set by the Rent-Review. Or if You chose to purchase this 3-bedroom Apartment, the price will be \$55,000.00 (Fifty Five Thousand Dollars.)

Yours truly

542 052 ONT LTD

  
O. Deikus



## APPENDIX "A".

### Impact on Supply of Units and Vacancy Rates

#### In City and Central Hamilton Zone

#### of Proposed Condominium Conversion

	<u>City</u>	<u>Central Hamilton</u>
Number of Apartment Units	33,511	3,396
Number Currently Vacant	881	141
Current Vacancy Rate	2.6%	4.1 %
Impact of Removing 21 Units From Supply of Units		
- Reduction in Units	21 or 0.06%	21 or 0.6%
- New Vacancy Rate	2.6%	3.6%

---

#### Notes:

- Vacancy rate is calculated from a survey of apartments with more than three units and rental row/townhouses, by CMHC.
- The Region of Hamilton-Wentworth recognizes the CMHC rates as the official rates to be used when applying Section 8.14 and 8.15 of the Regional Official Plan.
- A vacant unit is a dwelling unit that is available for immediate rental and physically unoccupied at the time of enumeration.
- Central Hamilton, as defined by CMHC, is the area in the lower City of Hamilton, between Hwy. 403 and Sherman Avenue, excluding the Downtown Core.

#### Source:

- Central Mortgage and Housing Corporation (CMHC), April, 1992 Rental Market Reports for Hamilton CMA, Table 4.

## APPENDIX "B"

### Vacancy Rates - Privately Initiated Buildings

#### Central Hamilton and the City of Hamilton

		<u>Central Hamilton</u>	<u>City of Hamilton</u>
		%	%
October	1989	3.1	0.7
April	1990	3.3	1.0
October	1990	5.7	1.4
April	1991	3.2	1.6
October	1991	3.9	1.9
April	1992	4.1	2.6

---

#### Notes:

- Vacancy rate is calculated from a survey of apartments with more than three units and rental row/townhouses, by CMHC.
- The Region of Hamilton-Wentworth recognizes the CMHC rates as the official rates to be used when applying Section 8.14 and 8.15 of the Regional Official Plan.
- A vacant unit is a dwelling unit that is available for immediate rental and physically unoccupied at the time of enumeration.
- Central Hamilton, as defined by CMHC, is the area in the lower City of Hamilton, between Hwy. 403 and Sherman Avenue, excluding the Downtown Core.

#### Source:

- Central Mortgage and Housing Corporation (CMHC), April, 1992 Rental Market Reports for Hamilton CMA, Table 4.



Ontario

Ministry of Housing  
Ministère du Logement

777 Bay Street  
2nd Floor  
Toronto, Ontario  
M5G 2E5  
(416) 585-7527

777 rue Bay  
2<sup>e</sup> étage  
Toronto (Ontario)  
M5G 2E5  
Fax: 585-7012

9a

September 25, 1992

Mr. J.J. Schatz  
City Clerk  
The Corporation of the City of Hamilton  
Office of the City Clerk  
71 Main Street West  
Hamilton, Ontario  
L8N 3T4

OFFICE OF THE CITY CLERK	
SEP 30 1992	
REC'D	<i>esf</i>
REL'D TO	<i>JDT.</i>
DATE	
<i>F.Y.A.</i>	

Dear Mr. Schatz,

RE: Rental Housing Protection Act  
Application CD 92-001  
515 Main Street East, Hamilton

This application is to convert a 21 unit rental property to condominium.

The property consists of 2 bachelor units, 4 one-bedroom units, 10 two-bedroom units, and 5 three-bedroom units.

Eighteen rental units are vacant and have been vacant, to the applicant's knowledge, for over two years. The remaining three units are occupied by tenants. The tenant in unit #14 has signed an agreement to terminate her tenancy on Sept. 27/92. Another couple, who have been tenants for 19 years, have indicated that they wish to continue renting their unit (#3) for now. The intention of the third tenant (unit #5) has not been identified.

The 1991 rent for units in the property range from \$293.83 to \$531.55 per month, taking the permitted 1991 rent review guideline increase of 5.4% into account. The current rents for the three occupied units are \$357, \$377 and \$418.

The Information Bulletin 1992 to the Land Use Planning for Housing Policy Statement (LUPHPS) states that rents of \$810 or less per month are affordable for the Hamilton area. Based on the rent information provided in the application and the LUPHPS Information Bulletin, all of the units in the subject property are affordable, in the view of the Ministry.

Proposed selling prices of the condominium units range from \$30,000 for a bachelor unit to \$55,000 for a three-bedroom unit. These are also affordable. The Information Bulletin sets \$149,500 as the maximum affordable housing price for Hamilton.





Section 7. (1) of the Regulation pertaining to the Rental Housing Protection Act, 1989 (O.R. 586/89, as amended) states that:

7. (1) The council of a municipality shall not approve an application under the Act unless the council is satisfied that at least one of the following criteria is met:

1. Council finds that,

- i a rental property for which an application is made for demolition is structurally unsound , or
- ii a rental property for which an application is made for renovation or repair is structurally unsound at the time of the application and will continue to be structurally unsound if the renovation or repair proposed by the applicant is not carried out and, in the case where tenants are in occupation of the unit, that vacant possession is required to effect the renovation or repair.

2. The applicant agrees,

- i. to provide the same number of new rental units in a similar rental range and in the same area as those for which approval is given; and
- ii. to provide rental accommodation in the same area of similar quality and rent, either in the new rental units or in other existing rental property, to any tenant who is required to give up possession of a rental unit as a result of the approval.

3. In the opinion of council, the proposal does not adversely affect the supply of affordable rental housing in the municipality.

Clause 7(1)(1) of the Regulation does not apply to this application.

The applicant has not indicated that he is prepared to rehouse existing tenants and build new rental units to replace the converted units. As such, Clause 7(1)(2) of the Regulation would not appear to apply.

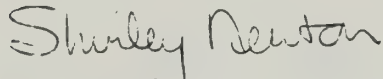
Accordingly, Council should consider this application under Clause 7(1)(3) of the Regulation. Council may approve it if, in Council's opinion, the proposal will not adversely affect the supply of affordable rental housing in the City.

Approval of this application would allow the condominium purchasers to evict current tenants, for personal possession under section 103 of the Landlord and Tenant Act, RSO 1990. As such, Council may wish to impose conditions of approval which reflect the owner's September 10th written offer to the tenants in units #3 and #5. This offer sets out two options: the tenants can continue to rent their unit as long as they wish, at the rent set by rent control, or they can purchase their three-bedroom unit for \$55,000.

Council may also wish to enter into an agreement with the applicant, outlining the approval conditions, and have the agreement registered on title. This would alert future condominium purchasers of any tenant occupancy conditions, and would be enforceable upon current or future owners.

Please call me if you have any questions.

Sincerely,



Mrs. Shirley Newton  
Planner  
Rental Housing Protection Program

cc. Vanessa Grupe





Planning & I  
c/o Hamilton  
City Clerks Office

SEP 29 1992

96

re: Condominium Conversion File # CD-92-001

Dear Sirs & Madames:

CITY CLERKS

I have paid particular attention to the activity of the building municipally known as 515 Main Street East, in Hamilton, over the course of the last several years. To my knowledge, an application to convert or renovate was made to council many years ago, which was subsequently denied. The owner at that time chose to keep vacated units vacant in order to circumvent due process. Thus, the majority of units in this building have remained vacant for many years, even during times when vacancy rates were alarmingly low, and the owner, by doing so, effectively thumbed its nose at City Council.

Now we see an application before Council for a conversion to condominiums, an act which depletes affordable housing in Hamilton, a City that requires MORE affordable housing, not less. This fact is demonstrated by Council's desire to implement housing intensification.

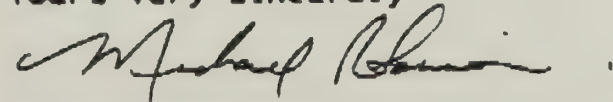
The owner of this building continues to thumb its nose at Council, and due process. As at the time of writing, no building permit has been issued for this address, as required by section 5 of the Building Code Act, and none could be obtained without the consent of Council. Yet one need only attend this building to learn that in fact heavy demolish, construction and renovation has and continues to take place, even today, without permit or consent. I would suggest that this action could be an offence under the Rental Housing Protection Act, and it could be construed that Council has acquiesced to this act by consenting to the application.

The actions of the owner(s) of this building to date have been nothing short of contemptuous, with flagrant disregard for the processes required by Council, and the laws of Ontario, and for one purpose only, that being "bottom line", or profits.

In this vein, I strongly urge that this application be denied. Though the vacancy rate in Hamilton is unusually high, certainly a shortage of affordable housing is painfully present, and I would suggest that steps could be taken to ensure that the rents for the units in this building could remain affordable, and while no owner could be forced to do anything with a certain property, action and prosecution could take place, should cause permit, that would essentially facilitate the resurrection of this building as a rental property. After all, if bottom line is the issue, vacant units are a threat. And they are a threat, particularly to the tenants of Hamilton and area.

These comments are submitted, with all due respect, and I remain,

Yours very sincerely



Michael Robinson  
c/o The Tenant Resource Centre  
360A Queenston Rd. Hamilton. L8K-1H9 545-4614



**CITY OF HAMILTON**

**- INFORMATION -**

10  
**RECEIVED**

SEP 30 1992

CITY CLERKS

**DATE:** 1992 September 30

**REPORT TO:** Ms. Tina Agnello, Secretary  
Planning and Development Committee

**FROM:** Mr. D. Lobo,  
Director of Public Works

**SUBJECT:** Crown Point West/Stipeley P.R.I.D.E. Programme;  
Resolution of Truck Traffic Problem at  
Glendale Spinning Mills

**BACKGROUND:**

At its Meeting held 1992 April 15 City Council adopted the following resolution:

- (a) (i) The Director of Property negotiate a ten-year lease of certain CP Rail land to provide a truck access route to Glendale Spinning Mills warehouse from Barton Street (subject to prior agreement with the owner of the industrial property on the participation of the City and Glendale Spinning Mills (and further that the proposed lease be referred to Council for consideration/approval.
- (ii) In the event that, as a condition by the industrial property owner of their full participation in the resolution of the truck access issue, the City is requested to stop up, close and sell a further portion of Belview Avenue, that the Transport and Environment Committee consider and make appropriate recommendations to Council, prior to finalization of any lease by the City of CP Rail land.
- (b) Subject to the above, that:
  - (i) funds be allocated from the Crown Point West/Stipeley Phase II P.R.I.D.E. Programme at a total estimated cost of seventy thousand dollars (\$70,000.), 50% Provincial and 50% Municipal for the purpose of relocating CP Rail's tracks and installing a hard surface on the leased access; and



- (ii) the Law Department be authorized to apply for O.M.B. approval of the ten-year lease because of the ongoing annual rental costs payable to CP Rail that are not covered by the P.R.I.D.E. Programme.

These resolutions were adopted subject to public hearings on the issue. Therefore, the following information is provided to the Planning and Development Committee and members of the public for the public meeting to be held 1992 October 07 at 11:00 a.m.:

As part of the Provincial P.R.I.D.E. Programme for the Crown Point West and Stipeley Neighbourhoods, Belview Park, located adjacent to Glendale Spinning Mills, was developed in 1988. In order to carry out the improvements, all of Beck Avenue and a portion of Belview Avenue were closed. During the winter of 1989 to 1990, truck access to Glendale Spinning Mills became more difficult with these roads closed than earlier anticipated, particularly with on-street parking, the lack of proper turning radius in the Glendale Spinning Mills receiving yard and inclement weather.

Prior to the road closures, trucks would be driven south from Barton Street on Glendale Avenue North, left on Primrose, drive over the tracks past the Spinning Mills driveway and back into the loading area over the train tracks. Now that the roads area closed, this is no longer possible. Trucks are now driving south on Glendale Avenue North from Barton Street, passing through the intersection at Primrose Avenue, and backing down Primrose and into the loading area. A map outlining the area and showing the existing route is attached as Schedule 'A'.

On 1990 May 30, a public meeting was held at the Holy Name of Jesus School, which is also adjacent to the park and to Glendale Spinning Mills. All of the citizens present were adamant that the large trucks should not be allowed to back up Primrose Avenue to reach the Spinning Mills loading facility. Since the Spinning Mills is so close to a park and a school, and located in the midst of a residential neighbourhood, the citizens are concerned for the safety of their children. There were approximately 75 residents in attendance at this public meeting.

After many meetings with politicians, staff from the City and Region, CP Rail and Glendale Spinning Mills President, Mr. Kamel, it appears that the only viable solution is to alter access to the loading area, away from Primrose Avenue which is adjacent to Belview Park, and move the access route to the north from Barton Street. The Glendale Spinning Mills, as illustrated on the attached layout attached as Schedule 'B', has a large area north of the building which can be accessed from Barton Street by heading southerly on Belview Avenue.

In order to allow trucks to reach the loading docks from this area on the south side of the building, CP tracks would have to be shifted to the east and the fence line moved so that the trucks could be driven around the east side of the building.

Pursuant to the 1992 April 15 City Council resolution, the necessary Lease Agreement between the City of Hamilton and CP Rail has been drafted and the process for closure of a portion of Belview Avenue North has been initiated. CP is prepared to order materials and start construction immediately.

  
JMcN:bk

cc: Alderman D. Drury, Ward Three

Alderman B. Morelli, Ward Three


Mr. J. Pavelka, C.A.O.  
Chief Administrator's Office

Mr. M. Watson, Manager  
Real Estate Division - Property Department

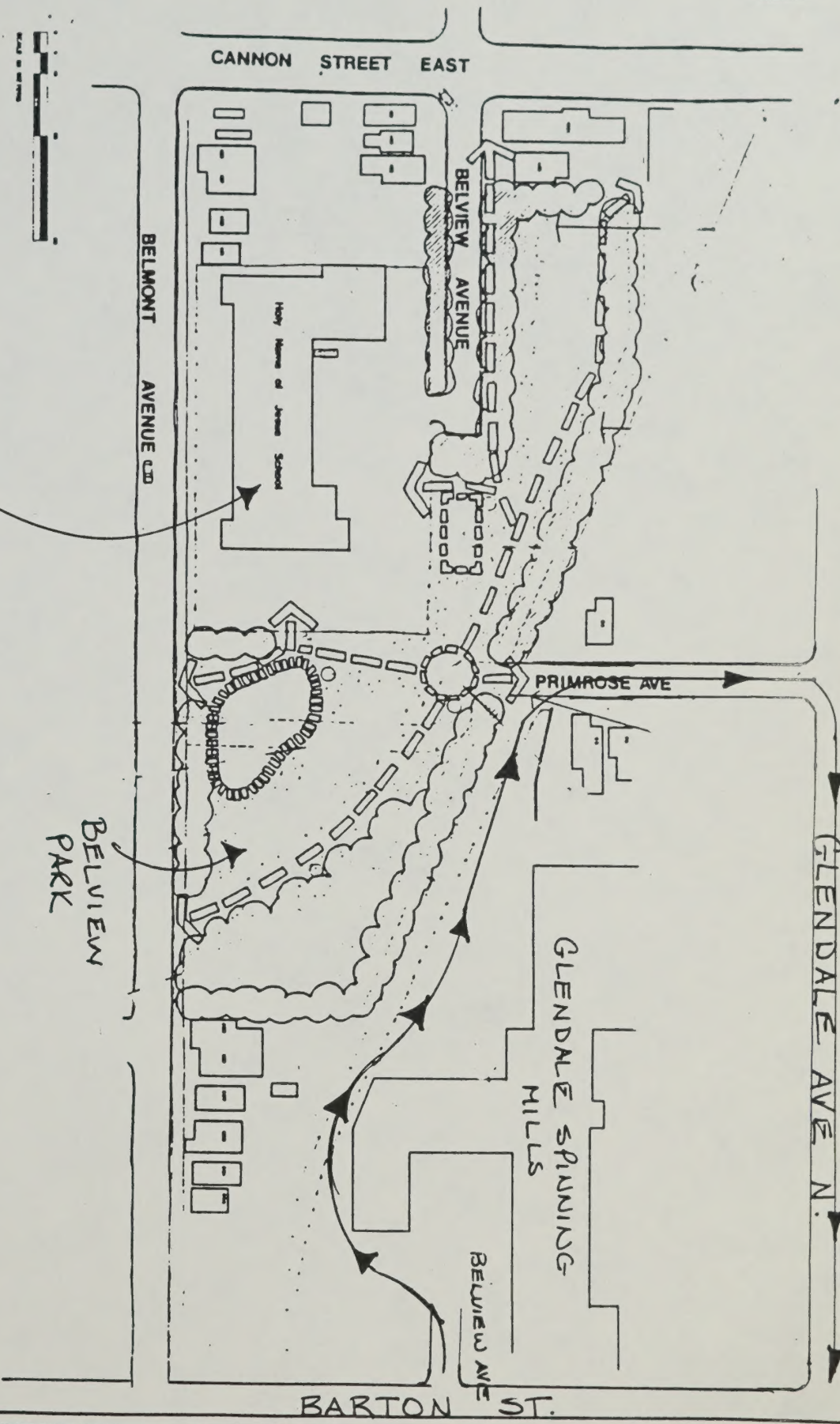
Mr. D. Powers, Solicitor  
Law Department

Mr. M. Hazell, Manager  
Community Traffic Services

Mr. Kamel, President  
Glendale Spinning Mills







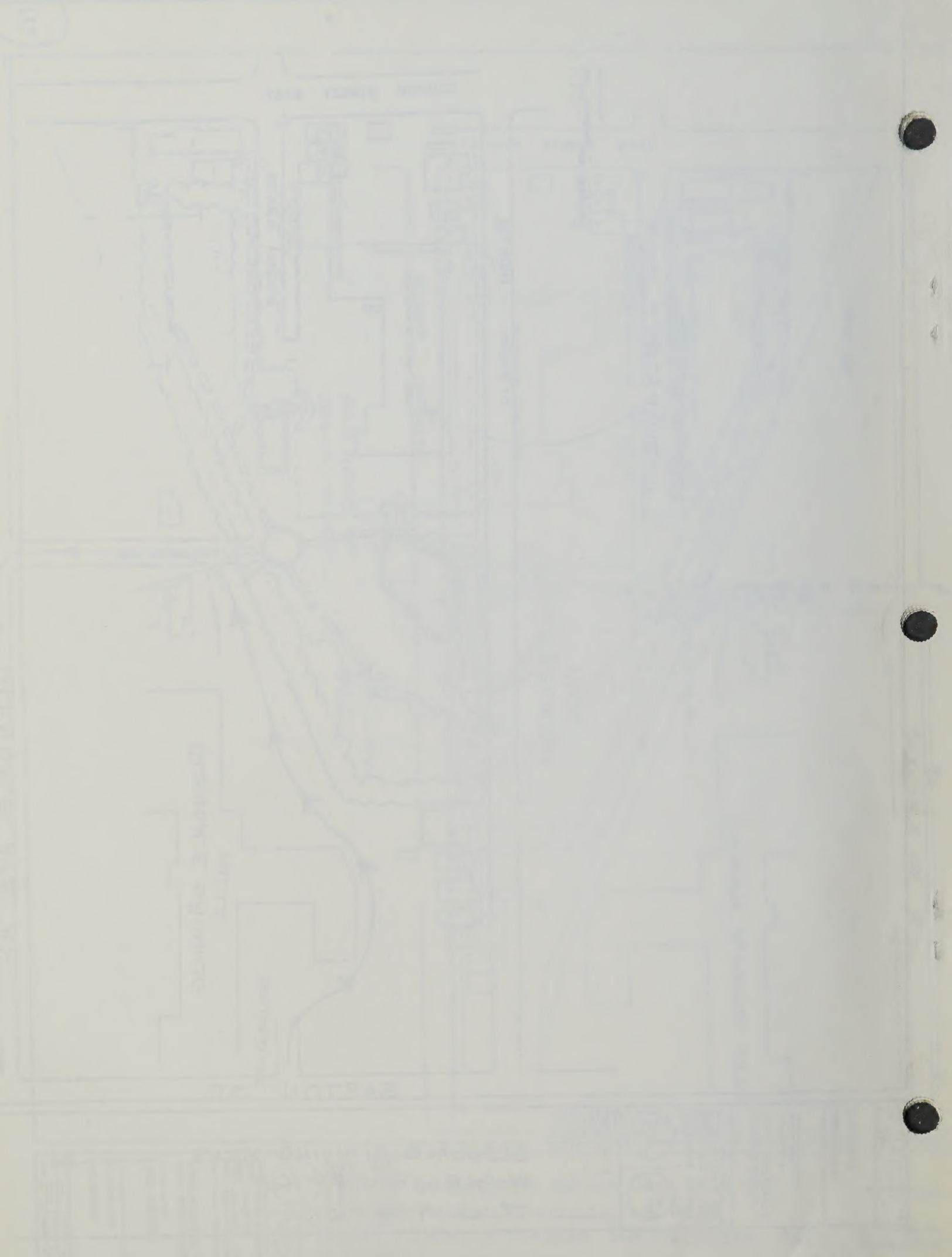
HOLYNAME OF  
JESUS SCHOOL

BELVIEW  
PARK

GLENDALÉ SPINNING  
MILLS

GLENDALÉ SPINNING MILLS  
PROPOSED ROUTING OF  
TRUCK TRAFFIC .

<p>STEELE CROWN POINT WEST PRIDE.</p>		<p>DATE OF DESIGN: 11/11/11</p> <p>DESIGNER: JAMES CROWN</p> <p>BY: JAMES CROWN</p>
<p>LANDSCAPE PLAN</p> <p>PRELIMINARY</p>		<p>SCALE: 1" = 40'</p> <p>DATE: 11/11/11</p> <p>BY: JAMES CROWN</p>







ACCO®

ACCOPRESS™



YELLOW	25070	JAUNE
*BLACK	25071	NOIR*
*BLUE	25072	BLEU*
RL. BLUE	25073	RL. BLEU
*GREY	25074	GRIS*
GREEN	25075	VERT
RUST	25078	ROUILLE
EX RED	25079	ROUGE

ACCO CANADA INC.  
WILLOWDALE, ONTARIO

\* INDICATES  
75% RECYCLED  
25% POST-  
CONSUMER FIBRE



\*SIGNIFIE 75 %  
FIBRES RECYCLÉES,  
25 % DÉCHETS DE  
CONSOMMATION

BALANCE OF PRODUCTS  
25% RECYCLED

AUTRES PRODUITS:  
25 % FIBRES RECYCLÉES



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